

**Table of Contents**  
**Provincial Training Conference for Legal Advocates**  
**October 8, 9, 10, 2019**

Agenda  
Participants List  
Speakers List

**TABS**

**1. Family and child protection**

- Systemic Poverty and Family Law Update (see Other)
- Family case law update (Day 1)
- Resources for family law advocates (Day1)
- Systemic barriers: issues affecting clients leaving relationships with intimate partner violence (Day 1)
- MCFD policy changes on kinship and customary care arrangements (Day1)
- Making the best use of services for family law clients (Day 2)
- Supporting self-represented clients complete forms (Day 2)
- Working with lawyers and judges to best represent family law clients (Day 2)
- Relocation issues in family law (Day 2)
- An overview of the child protection process (Day 3)
- Interjurisdictional issues in family law (Day 3)
- Variations in Provincial Court for parenting time orders (Day 3)

**2. Housing**

- Residential tenancy update (Day 1)
- Discussions with Residential Tenancy Branch compliance staff (Day 1)
- Orders of Possession (Day 2)
- Tenancy issues facing women leaving abusive relationships (Day 3)
- Housing rights and “treatment resistance”:  
problems with “supportive” and program agreements housing (Day 3)

**3. Indigenous Issues**

- Legal issues on reserve (Day 1)
- Helping clients with Day School Applications (Day 2)
- Helping Indigenous women register for membership under the Indian Act (Day 2)
- Recognizing and respecting Indigenous intergenerational trauma (Day 3)

**4. Resources and Services**

- MyLawBC’s Family Resolution Centre (Day 1)
- Resources for family law advocates (*see Family*)
- LSS interactive scripting videos (Day 2)

- **Working with Legal Aid (Day 3)**

**5. Skills and Procedure**

- **Best practices, ethics and file management: a discussion (Day 1)**
- **Statutory interpretation Exercises (Day 2)**
- **Enforcing monetary orders (Day 2)**
- **Strategies for supporting clients with mental health issues (Day 2)**

**6. Welfare and Disability Benefits**

- **Systemic Poverty and Family Law Update (Day 1)**
- **Changes, tips and questions: a conversation with the Chair of the Employment and Assistance Appeal Tribunal (Day 1)**
- **CPP-D benefits – hands on (Day 1)**
- **MSDPR update and consultation (Day 2)**
- **Long term disability benefits (Day 2)**
- **Welfare and assets (Day 3)**
- **Spousal cases in welfare (Day 3)**

**7. Other**

- **Systemic Poverty and Family Law Update (see Welfare)**
- **Strategies for supporting clients with mental health issues (see Skills)**
- **Workers' rights (Day 2)**
- **Civil Resolution Tribunal (Day 3)**
- **Consultation by Seniors First BC (Day 3)**
- **Debt issues (Day 3)**

## TUESDAY, OCTOBER 8, 2019 – DAY 1

Times	Room	Workshop	Resource persons
8:00 – 8:30 am	<i>Registration</i>		
8:30 – 9:00 am	<i>Opening: welcome and announcements – Josh Paterson – ED, Law Foundation; Mark Benton – CEO, LSS; and Grandma Joy – Star Elder</i>		
9:00 – 10:30 am	Ballroom A, B, C	<b>Systemic poverty and family law update</b>	Alison Ward – CASL lawyer and Danielle Sabelli – staff lawyer, CLAS Carly Teillet – lawyer, BCCLA Raji Mangat – ED, West Coast LEAF
10:30 – 10:45 am	<i>Coffee Break</i>		
10:45 – 12:15 pm	Ballroom A, B	<b>Family case law update</b>	Agnes Huang – lawyer, Agnes Huang Law
	Ballroom C	<b>Changes, tips, and questions: a conversation with the Chair of the Employment and Assistance Appeal Tribunal</b>	Emily Drown – chair, Employment and Assistance Appeal Tribunal
	Bridgeport	<b>Best practices, ethics, and file management – a discussion</b>	Thea McDonagh – senior advocate, TAPS Amber Prince – lawyer, Atira
12:15 – 1:15 pm	<i>Lunch: Learn how MyLawBC's Family Resolution Centre helps couples make parenting plans online with FREE mediators (Ballroom A, B -12:30 – 1:00) Nate Prosser – Project Analyst, LSS</i>		
1:15 – 2:45 pm	Ballroom A, B	<b>Resources for family law advocates</b>	Taruna Agrawal – FASL lawyer, RISE Legal Clinic Vicky Law, Virtual Legal Clinic Patricia Lim – Publications Development Coordinator, LSS
	Ballroom C	<b>Residential tenancy update</b>	Zuzana Modrovic – lawyer, TRAC Amber Prince – lawyer, Atira Danielle Sabelli – lawyer, CLAS
	Bridgeport	<b>LSS Community Dialogue: Let's talk about how legal aid can better help your clients and communities</b>	Kathryn Spracklin – Manager, Strategic Planning & Policy, LSS
	Cambie	<b>Legal issues on reserve</b>	Patricia Barkaskas – academic director, Indigenous Community Legal Clinic Elaine Hunt – advocate, SHED
2:45 – 3:00 pm	<i>Coffee Break</i>		
3:00 – 4:30 pm	Ballroom A, B	<b>Systemic barriers: issues affecting clients leaving relationships with intimate partner violence</b>	Andrea Bryson – case manager and Taruna Agrawal – FASL lawyer, Rise Legal Clinic
	Cambie	<b>Discussions with Residential Tenancy Branch (RTB) compliance staff</b>	Kathy Elder – ED, RTB Scott McGregor – Director Compliance and Enforcement, RTB
	Bridgeport	<b>MCFD policy changes on kinship and customary care arrangements</b>	Caity Goerke – lawyer and Christina Campbell – advocate/social worker, Parent Support Services
	Ballroom C	<b>Canada Pension Plan Disability (CPPD) benefit hands on (INTRO)</b>	Caitlin Wright and Daniel Jackson – advocates, TAPS
5:30 pm	<i>Dinner hosted by LSS and Law Foundation (Cash bar @ 4:30 pm)</i>		

**CONFERENCE SESSION DESCRIPTIONS – TUESDAY, OCTOBER 8, 2019 – DAY 1**

<b>Systemic poverty and family law update</b>	Updates on welfare, housing, employment standards, family law, and the final report of the National Inquiry into Murdered and Missing Indigenous Women and Girls
<b>Family case law update</b>	An overview of family case law over the past year that highlights important new developments
<b>Changes, tips and questions: a conversation with the Chair of the Employment and Assistance Appeal Tribunal</b>	Reflections by the new chair of the Tribunal about her experience over the past year, including advice about best practices for presenting to the Tribunal and discussion with advocates
<b>Best practices, ethics and file management — a discussion</b>	An opportunity for new advocates to discuss file management and ethical issues that they might have questions about with experienced advocates
<b>Learn how MyLawBC's Family Resolution Centre helps couples make parenting plans online with FREE mediators</b>	A presentation about MyLawBC's new online negotiation platform for couples making parenting plans with or without the help of a free mediator
<b>Resources for family law advocates</b>	Hints and practical tips for using DivorceMate, the LSS's Family Law in BC website, MyLawBC's Family Resolution Centre, the family law listserv, and other resources
<b>Residential tenancy update</b>	An overview of recent case law and discussion of procedural issues by staff from Tenants Resource and Advisory Centre (TRAC), Community Legal Assistance, and Atira
<b>LSS Community Dialogue: Let's talk about how legal aid can better help your clients and communities</b>	Facilitated small group discussions to get your perspectives on how LSS can ensure it delivers accessible and high quality services to meet client needs
<b>Legal issues on reserve</b>	An overview by advocates and a lawyer working in the area about the legal issues that clients living on reserve might encounter and what resources are available to help them
<b>Systemic barriers: issues affecting clients leaving relationships with intimate partner violence</b>	A review of immigration, tenancy, employment, and other issues that affect clients leaving relationships with intimate partner violence
<b>Discussions with Residential Tenancy Branch (RTB) compliance staff</b>	An overview of when the unit will intervene and the steps in the process of making a complaint from start to finish
<b>MCFD policy changes on kinship and customary care arrangements</b>	An overview of the legislation and policy changes with regards to kinship caregiving
<b>Canada Pension Plan Disability (CPPD) benefit hands on (INTRO)</b>	A session for those new to CPPD that will provide information about eligibility, MQP, applications, and strategies for reconsiderations

**WEDNESDAY, OCTOBER 9, 2019 – DAY 2**

Times	Room	Workshop	Resource persons
7:30 – 9:00 am	Ballroom A, B, C	<b>Law Foundation Breakfast Meeting</b> <b>*Law Foundation funded advocates ONLY*</b>	
9:15 – 10:45 am	Ballroom C	<b>Making the best use of services for family law clients</b>	Stephanie Smith-Turpin, Family Justice Centres Katrina Harry – manager, Indigenous Services, Parents Legal Centre, LSS Suzette Narbonne – lawyer, The Society for Children and Youth of BC Adina Popescu, lawyer Family Law Services, LSS Vicky Law – lawyer, Virtual Legal Clinic
	Bridgeport	<b>Statutory Interpretation Exercises</b>	Kendra Milne – senior director of policy, CMHA
	Ballroom A, B	<b>MSDPR update and consultation</b>	Dana Jensen – ED, Strategic Services Cary Chiu – ED, Policy and Legislation Anita LaHue, director, Engagement, Partnerships, and Strategic Initiatives
	Cambie	<b>Helping Clients with Day School Applications</b>	Dr. Robert Russo – Allard School of Law
10:45 – 11:00 am	<i>Coffee Break</i>		
11:00 – 12:30 pm	Bridgeport	<b>Supporting self-represented litigants</b>	Taruna Agrawal – FASL lawyer, RISE Legal Clinic
	Ballroom C	<b>Strategies for supporting clients with mental health issues</b> <i>(Repeated on Oct 10 at 8:30 am)</i>	Kendra Milne – senior director of policy, CMHA Laura Johnston – lawyer, CLAS Brett Haughian – advocate, CLAS
	Ballroom A, B	<b>MSDPR update and consultation</b>	<i>(continued)</i>
	Cambie	<b>Orders of Possession</b>	Emily Rogers – advocate, TAPS Kevin Love – lawyer, CLAS
12:30 – 1:30 pm	<i>Lunch: Sneak peek! New interactive “scripting” videos about First Appearances in family court (Ballroom A, B 12:45 – 1:15)</i>		
1:30 – 3:00 pm	Ballroom A, B	<b>Working with lawyers and judges to best represent family law clients</b>	Judge Kathryn Ferriss
	Ballroom C	<b>Helping Indigenous women register for membership under the Indian Act</b>	Claire Truesdale – JFK Law Corporation
	Bridgeport	<b>Long Term Disability (LTD) benefits</b>	Nyssa Lessingham – former advocate Martin Willemse – lawyer
	Cambie	<b>Enforcing monetary orders</b>	Chris Heslinga – supervising lawyer, LSLAP
3:00 – 3:15 pm	<i>Coffee Break</i>		
3:30 – 5:00 pm	Ballroom A, B	<b>Relocation issues in family law</b>	Agnes Huang – lawyer, Agnes Huang Law
	Bridgeport	<b>ID clinics – how they work and how to set one up</b>	Doug King – ED, TAPS Tracy Wachmann – public interest coordinator, UBC Ryan terAverst, Manager, The Kettle Society
	Ballroom C	<b>Workers’ Rights</b>	Kevin Love – lawyer, CLAS Natalie Drolet – lawyer, MWC
	Cambie	<b>Enforcing monetary orders</b>	<i>(continued)</i>
5:30 pm	<i>Povnet AGM</i>		

## CONFERENCE SESSION DESCRIPTIONS – WEDNESDAY, OCTOBER 9, 2019 – DAY 2

<b>Law Foundation Breakfast Meeting</b>	Discussions among Law Foundation funded advocates and Law Foundation staff *Law Foundation funded advocates ONLY*
<b>Making the best use of services for family law clients</b>	A panel discussion among providers about the services they provide and how they can best complement one another to support clients
<b>Statutory Interpretation Exercises</b>	A hands-on workshop about applying statutory interpretation principles
<b>MSDPR update and consultation</b>	Staff from MSDPR will provide updates on their work over the past year and be available to discuss issues with advocates. Alison Ward and Tish Lakes will be moderating this session.
<b>Helping Clients with Day School Applications</b>	An opportunity for advocates working with Indigenous clients and former day school students who have federal day school claim applications to learn more about the best approach to filling out application forms, more complex issues to be aware of, and where to go for help if needed
<b>Supporting self-represented litigants</b>	A hands-on session that will give new family law advocates practice filling out forms often needed by their clients
<b>Strategies for supporting clients with mental health issues</b> <i>(This session will be repeated on Oct 10 at 8:30 am)</i>	A conversation among advocates and lawyers experienced in providing services to clients with mental health issues about some common ethical and practical challenges
<b>Orders of Possession</b>	An overview of the process, the role of the bailiff, and strategies for dealing with orders of possession once they have been made
<b>Sneak peek! New interactive “scripting” videos about First Appearances in family court</b>	An opportunity to critique new interactive content, including two short videos, created for the Family Law in BC website, based on Salima Samnani’s method of providing “scripts” for family clients to take into the courtroom
<b>Working with lawyers and judges to best represent family law clients</b>	A unique opportunity to hear from a judge with extensive experience in family law about the how advocates can best support their clients when working with lawyers and appearing in court
<b>Helping Indigenous women register for membership under the Indian Act</b>	An overview of changes to the Indian registration (“Indian status”) provisions of the Indian Act, review of the application process, common challenges in assisting clients with applying for registration, and guidance on when to seek legal advice or access other resources
<b>Long Term Disability (LTD) benefits</b>	Long Term Disability (LTD) benefits can provide an important source of income for people who are eligible under an insurance policy and find themselves unable to work due to disability. However, applications for these benefits can be overwhelming and denials are common. In this session, the presenters will share how legal advocates can provide key information and support to clients with disability insurance cases, including guidance on when seeking legal advice is appropriate
<b>Enforcing monetary orders</b>	An opportunity to do practical, hands-on work on issues such as payment hearings, garnishees, and Small Claims Court
<b>Relocation issues in family law</b>	An overview of the law around relocation and how to best help clients dealing with such issues
<b>ID clinics — how they work and how to set one up</b>	An opportunity to learn from groups that have set up ID clinics, how best to go about it, and some of the challenges in the process
<b>Workers Rights</b>	An update on changes to ESB, EI and temporary foreign workers programs

**THURSDAY, OCTOBER 10, 2019 – DAY 3**

<b>Times</b>	<b>Room</b>	<b>Workshop</b>	<b>Resource persons</b>
8:30 – 10:00 am	Bridgeport	<b>An overview of the child protection process</b>	Todd McPherson – Managing Lawyer, Parents’ Legal Centre, LSS Katie Diehl, lawyer
	Ballroom C	<b>Strategies for supporting clients with mental health issues</b> (Repeat of Oct 9 session)	Kendra Milne – senior director of policy, CMHA Laura Johnston – lawyer, CLAS Brett Haughian – advocate, CLAS
	Ballroom A, B	<b>Tenancy issues facing women leaving abusive relationships</b>	Amy Fitzgerald – ED, BCTHS Amber Prince – lawyer, Atira Sairoz Sekhon – manager, BC Housing Women’s Transition Housing and Supports Program Wendy Harrison – senior policy analyst, RTB
	Cambie	<b>Understanding welfare and assets: options for working with lump sums clients receive, disposal of asset allegations, and understanding beneficial interests</b>	Alison Ward – CASL lawyer, CLAS
10:00 – 10:15 am	<i>Coffee Break</i>		
10:15 – 11:45 am	Ballroom C	<b>Housing rights and “treatment resistance” – the problems with “supportive” and program agreements housing</b>	Danielle Sabelli – lawyer, CLAS Anna Cooper – lawyer, PIVOT
	Ballroom A, B	<b>Interjurisdictional issues in family law</b>	Terri Campbell – advocate, Quesnel Tillicum Society
	Cambie	<b>Working with Legal Aid</b>	Deneen Garrett – provincial supervisor, Legal Aid Applications, LSS
	Bridgeport	<b>Spousal cases in welfare</b>	Daniel Jackson – lawyer, TAPS
11:45 – 12:45 pm	<i>Lunch</i>		
12:45 – 1:45 pm	Ballroom A, B, C	<b>Civil Resolution Tribunal</b>	Shannon Salter – chair, Civil Resolution Tribunal
1:45 – 3:15 pm	Ballroom A, B	<b>Variations in Provincial Court for parenting time orders</b>	Vicky Law – lawyer, Virtual Legal Clinic
	Ballroom C	<b>Recognizing and respecting Indigenous intergenerational trauma</b>	Myrna McCallum – lawyer
	Bridgeport	<b>Consultation by Seniors First BC</b>	Kevin Smith – consultant, Seniors First BC
	Cambie	<b>Debt issues</b>	Alison Ward – CASL lawyer, CLAS
3:15 – 4:00 pm	Ballroom A, B	<b>The Office of the Human Rights Commissioner – remarks by the new Commissioner</b>	Kasari Govender – Human Rights Commissioner

**CONFERENCE SESSION DESCRIPTIONS – THURSDAY, OCTOBER 10, 2019 – DAY 3**

<b>An overview of the child protection process</b>	An overview of procedures and best practices in child protection from staff working at the Parents' Legal Centre run by LSS
<b>Strategies for supporting clients with mental health issues</b> <i>(Repeat)</i>	A conversation among advocates and lawyers experienced in providing services to clients with mental health issues about some common ethical and practical challenges
<b>Tenancy issues facing women leaving abusive relationships</b>	A discussion with RTB staff, transition house providers, and advocates about tenancy issues facing women leaving abusive relationships
<b>Understanding welfare and assets: options for working with lump sums clients receive, disposal of asset allegations, and understanding beneficial interests</b>	Issues that affect clients on income assistance such as trusts and beneficial interests
<b>Housing rights and “treatment resistance” – the problems with “supportive” and program agreements housing</b>	A panel on options for, and the challenges of, transitional housing, supported housing, and modular housing
<b>Working with Legal Aid</b>	A discussion with LSS staff about how to help clients apply for legal aid or to make a complaint
<b>Spousal cases in welfare</b>	An opportunity for new advocates to consider how to best present arguments on their client's behalf in these cases
<b>Civil Resolution Tribunal</b>	A discussion with CRT staff
<b>Variations in Provincial Court for parenting time orders</b>	A session that will review the case law on a change in circumstances and show you the steps of applying for a variation — using forms and an affidavit
<b>Recognizing and respecting Indigenous intergenerational trauma</b>	Trauma-informed legal practice and advocacy benefits all: survivors, advocates, adjudicators, front-line workers, offenders and witnesses. To “do no harm” in serving our clients and their communities is the first critical step we must take in engaging with those who carry the wounds of intergenerational trauma, and the second is to recognize and respect the resilience of Indigenous people
<b>Consultation by Seniors First BC</b>	Seniors First BC is conducting a feasibility study into providing help for low income adults outside the lower mainland (including members of First Nations living on reserves) to produce advance planning documents (wills, powers of attorney, and representation agreements)
<b>Debt Issues</b>	A basic overview of selected debt issues including student loans, bankruptcy, and limitation dates
<b>The Office of the Human Rights Commissioner – remarks by the new Commissioner</b>	A unique opportunity to hear briefly from the new Human Rights Commissioner as she enters her new position.

**Provincial Training Conference  
Sponsored by the Law Foundation and Legal Services Society  
October 8, 9 and 10, 2019**

**Radisson Hotel Vancouver Airport  
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intake@womenslegalcentre.ca

womenslegalcentre.ca

Andrea is the first point of contact for women accessing Rise and to be a resource to service providers seeking assistance for their clients. Andrea has been working in family law advocacy with women leaving abuse for over 12 years, and is best known for her work with women with precarious status and women experiencing complex litigation. She is a seasoned speaker and presenter on family law and intimate-partner violence.

**Terri Campbell** (see participant list)

**Christina Campbell**

Advocate

**Parent Support Services**

204 - 5623 Imperial Street

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604-669-1616 ext 101

The Grandparents Raising Grandchildren Support Line (1-855-474-9777) provides on-going support to grandparents and other relative-caregivers. Advocates assist kinship caregivers to navigate complex systems such as Ministry of Children and Family Development services and provincial court processes, and advise on benefits and services that support the whole family. Advocates also work to address systemic barriers facing grandparents in a parenting role with the goals of equality, justice, and the safety and well-being of children.

**Cary Chiu**

Executive Director, Policy and Legislation

**SDPR**

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Cary has worked in the ministry since 2008 in reconsideration and appeals, in litigation, and now in policy and legislation. Before joining the ministry Cary was an investigator for the BC Ombudsperson, investigating social program ministries (including at the time, the Ministry of Employment and Income Assistance) and co-authoring the 2009 systemic report "Last Resort: Improving Accountability in British Columbia's Income Assistance Program."

**Judy Clarke**

Editor

**Legal Services Society**

425 - 510 Burrard Street

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604-601-6000

**Anna Cooper**

Lawyer

**Pivot Legal Society**

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Anna was driven to law school by her desire to address inequality in a systemic way. Early experiences volunteering in the Downtown Eastside and with the Elizabeth Fry Society taught her about the gross inequalities in Canadian society and our continued criminalization of race and poverty. She graduated from law school in 2013 and went on to practice in criminal defence and mental health law prior to joining Pivot in August of 2017. Anna is committed to using the law as a tool to protect and advance the dignity of all people.

**Natalie Drolet**

Executive Director - Staff Lawyer

**Migrant Workers Centre**

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**Emily Drown**

Tribunal Chair

**Employment and Assistance Appeal Tribunal**

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Emily obtained her Bachelor of Arts from Malaspina University-College (now Vancouver Island University) in 2000 and her Bachelor of Laws from the University of Victoria in 2004. Prior to being appointed Chair of the Employment and Assistance Appeal Tribunal, Emily served as Vice-Chair and Chair of the Safety Standards Appeal Board and also maintained a professional law practice in Victoria, BC with a focus on civil litigation and family law. Emily has served numerous times as a guest judge for the Law Society of British Columbia's Professional Legal Training Course and has taught Contract Law and Dispute Resolution for Construction Specifications Canada. Emily is past-President of the British Columbia Council of Administrative Tribunals and a director of the Council of Canadian Administrative Tribunals.

**Kathy Elder**

Executive Director Residential Tenancy Branch

**Residential Tenancy Branch, Ministry of Municipal Affairs and Housing**

PO Box 9298 Stn Prov Govt

Victoria, BC V8W 9J8

250-888-7116

Kathy has been the Executive Director of the Residential Tenancy Branch (RTB) since August of 2016. She oversees the branch of government responsible for ensuring all landlord and tenants in British Columbia have access to efficient, client centered, fair and impartial dispute resolution processes and information services. Prior to this role, Kathy was the Director of Operations in the Residential Tenancy Branch for 3 years, where she focused on preparing the operation for business transformation and improving client services.

**Judge Kathryn Ferriss**

**Provincial Court of British Columbia**

Judges' Chambers, Fourth Floor

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Judge Ferriss obtained her law degree from the University of British Columbia in 1986 and was called to the BC bar in 1987. Between 1988 and 1993 she was legal counsel with the Family Maintenance Enforcement Program. From 1993 to 2002, she was a family staff lawyer at the Port Coquitlam Office of the Westminster Community Legal Services Society and the Legal Services Society's Vancouver office.

Between 2002 and 2015, Judge Ferriss was contracted by LSS to set up the Robson Square Family Duty Counsel Project where she was instrumental in the development, implementation and ultimate success of that program. During that time, she also acted as a consultant and coordinator with LSS regarding the Family Duty Counsel and Advice Lawyer programs in B.C. and the Parents Legal Centre at Robson Square. She briefly held the position of LSS Manager, Family Law Services, prior to her appointment to the Surrey Provincial Court on July 31, 2015. For many years, Judge Ferriss authored the chapter on Provincial Court practice in CLE's BC Family Practice Manual. She has been a presenter or chair at several conferences including the Advocates' Conference, CLE courses and Family Duty Counsel Conferences.

**Kate Fish**

Community Manager

**PovNet**

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Kate Fish (she/her pronouns) will be joining the PovNet team as our Online Community Manager. She brings a unique combination of skills to the table. She's a social worker, community builder, social media lover, and entrepreneur (check out Big Hello Social Co.). Kate is a mash up of tech skills, creativity, critical thinking, and activism. When she's not on the computer Kate is probably volunteering with Fat Girls Hiking or the Comox Valley Community Health Network, playing board games, drinking coffee, and listening to podcasts. Kate currently lives in the Comox Valley on Vancouver Island, after a long stint in Kelowna working primarily in HIV/HCV, harm reduction, the opioid overdose emergency, and housing in both non-profit agencies and Interior Health. She is originally from Prince Rupert.

**Amy S. FitzGerald**

Executive Director

**BC Society of Transition Houses**

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Amy is the Executive Director and formerly the Director of Training & Programs at the BC Society of Transition Houses (BCSTH). In BC, she has also been a policy analyst and consultant on violence against women and transportation needs in Northern BC. She has been a public interest lawyer for over 20 years serving as the domestic violence Assistant Attorney General at the Vermont Attorney General's Office working on unsolved homicides, litigation, policy, training and legislation and a Legal Services lawyer and Public Defender in Vermont and NYC. Amy was the founding chair of Vermont's Domestic Violence Fatality Review Commission and served on Vermont's Child Fatality Review Team.

**Deneen Garrett**

Provincial Supervisor

**Legal Services Society of BC**

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Deneen has been working for Legal Services for over 25 years as an Intake Worker, Reciprocal Coordinator, and Provincial Supervisor.

**Caity Goerke**

Advocate/Lawyer

**Parent Support Services**

204 - 5623 Imperial Street

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Caitlin.goerke@parentsupportbc.ca

The Grandparents Raising Grandchildren Support Line (1-855-474-9777) provides on-going support to grandparents and other relative-caregivers. Advocates assist kinship caregivers to navigate complex systems such as Ministry of Children and Family Development services and provincial court processes and advise on benefits and services that support the whole family. Advocates also work to address systemic barriers facing grandparents in a parenting role with the goals of equality, justice and the safety and well-being of children.

**Kasari Govender**

BC Human Rights Commissioner

**Office of the Human Rights Commissioner**

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Kasari took office as B.C.'s first independent Human Rights Commissioner on September 3, 2019. Her role is to lead the promotion and protection of human rights in British Columbia through the Office of the Human Rights Commissioner.

Kasari has devoted her life to promoting human rights, with a focus on the rights of those most marginalized and vulnerable. She is passionate about using her skills as a lawyer and community builder to create a more equal and just B.C. She has worked closely with organizations and communities promoting gender equality, Indigenous rights, children's rights, the rights of people with disabilities and the rights of migrant communities.

From 2008 until 2019, Kasari held leadership positions at West Coast LEAF, including as Executive Director from 2011. She has co-authored a number of key reports and articles, and speaks widely on issues such as violence against women, access to justice, balancing human rights and regulating hate speech. Earlier work includes pivotal roles in establishing the Rise Women's Legal Centre, a non-profit legal clinic in British Columbia.

Kasari earned her law degree from the University of Victoria and her Master's Degree in International Human Rights Law from the University of Oxford, U.K. She was a member of the board of the University of Victoria, Pivot Legal Society, the Coalition for Public Legal Services, and the Society for Children and Youth. She has taught as an Adjunct Professor of Law at the University of British Columbia and as an instructor at Simon Fraser University. In 2019, her work was recognized by the Women Lawyer's Forum with their Award of Excellence.

In addition to her role as Human Rights Commissioner, Kasari is a mother, an aunt, a daughter and a sister.

**Wendy Harrison**

Senior Policy Analyst

**Ministry of Municipal Affairs and Housing, Residential Tenancy Branch**

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Wendy has been a Senior Policy Analyst at the RTB for 4 years. Prior to that, she worked for the Court Services Branch in numerous capacities for over 20 years. She oversaw the implementation of the Family Law Act, as well as initiatives around having court registry staff draft protection orders. One of her current projects at the RTB is working on the drafting and implementation of regulations to be used by people who need to end a fixed-term tenancy agreement early. These provisions will expand on the current provisions that allow those who have been affected by family violence to end their tenancies early without financial penalty.

**Katrina Harry**

Indigenous Services Manager

**Legal Services Society**

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Katrina has worked for many years in family law and child protection. She is currently the Indigenous Services Manager at Legal Services Society, responsible for the Parents' Legal Centres throughout BC.

**Brett Haughian**

Supervising Legal Advocate

**Mental Health Law Program of Community Legal Assistance Society**

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Brett worked with CLAS's Mental Health Law Program for 28 years. The team represents clients who are detained under the Mental Health Act and want to challenge their certification by applying for a Review Panel Hearing. Prior to CLAS Brett worked as a tenant advocate at the Tenants Rights Action Centre for 5 years.

**Chris Heslinga**

Supervising Lawyer

**UBC Law Students' Legal Advice Program (LSLAP)**

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Chris is the Civil Supervising Lawyer for the UBC Law Students' Legal Advice Program and was recently appointed as a new Supervising Lawyer for the UBC Indigenous Community Legal Clinic. Chris is also a roster lawyer for the Community Legal Assistance Society's Mental Health Law Program, where he represents clients at Mental Health Review Board Hearings. Additionally, Chris supervises students through Pro Bono Students Canada who put on Family Law Informational Presentations to community groups throughout the Lower Mainland.

**Agnes Huang**

Barrister &amp; Solicitor

**Saltwater Law**

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Agnes practises family law and as parent's counsel in child protection cases at Saltwater Law in Vancouver. Agnes is a member of the family law committee of the Trial Lawyers Association of BC and an executive member of the family law section of the Canadian Bar Association - BC Branch. Agnes still has dreams of venturing into the practice of immigration and refugee law. Next year!

**Elaine Hunt**

Indigenous Services Worker

**Bella Coola Legal Advocacy Program**

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Elaine is of Anishnabe (Ojibway) heritage registered with Whitesand First Nation in Ontario. She grew up in the community of Namaygoosisagagun on the southwest corner of Wabakimi Park in Ontario, Canada, lived for 18 years on Vancouver Island, BC and moved to Nuxalk Territory in June 2015. She has a bachelor's degree with a major in First Nations Studies from Vancouver Island University in Nanaimo BC (2011). Elaine is Accredited First Nations Mediator trained in The Indigenous Association for Just Relations in Saskatchewan (2012). She has a passion for advocacy from a community-based perspective, and is honored to be the Indigenous Services Worker with the Bella Coola Legal Advocacy Program. Elaine is a strong voice for all community members, to echo what needs to be heard in a good way. In her Anishinaabek language "mini-bimaadiziwin" means "lead a good life". She strives to maintain a balance in her daily life through photography, bead work, reading, and meditation.

**Daniel Jackson**

Staff Lawyer

**TAPS**

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Daniel is the new poverty law lawyer at TAPS in Victoria. Previously he worked at TAPS for several years as an advocate.

**Dana Jensen**

Executive Director of Strategic Services Branch, Service Delivery Division

**Ministry of Social Development Poverty Reduction**

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Dana began her public service career as an Employment and Assistance Worker in 1996. Since then she has worked in both the Policy and Service Delivery Division and currently the Executive Director for the Strategic Services Branch. Over the years she has gained a broad knowledge about SDPR programs and is passionate about supporting the work of our staff in providing support to low income citizens. Dana and her husband live in Victoria with their three teenagers.

**Laura Johnston**

Staff Lawyer

**Community Legal Assistance Society**

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**Doug King**  
Executive Director  
**TAPS**  
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Douglas King entered law school at UBC in 2003 focused on a career in international human rights. However, as he spent more time in Vancouver, he became deeply aware of the complicated human rights issues right here in British Columbia. After graduating, Douglas worked as a legal advocate for the Downtown Eastside Residents' Association ("DERA"), before articling with the Appeals Section of the Legal Services Society. He then went on to work as a police accountability lawyer for Pivot Legal Society, focusing on policy reform through civil and constitutional litigation. In 2017 Douglas moved over to Victoria where he took over as Executive Director of Together Against Poverty Society ("TAPS"), one of the largest providers of face-to-face legal advocacy services for low-income people in British Columbia.

**Anita LaHue**  
Director of Engagement, Partnerships, and Strategic Initiatives  
**Ministry of Social Development Poverty Reduction**  
108 Richards Street  
Nanaimo, BC V9R 2S8  
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Anita.LaHue@gov.bc.ca

Anita LaHue began her public service career as an Office Assistant worker with Service BC in Prince George over 31 years ago. Throughout her career, she has had various opportunities to work in different ministries. She has been with SDPR for the last 25 years and experienced the many changes and improvements to the Ministry's service delivery. She is passionate and committed to making a difference that better serves BC citizens. Anita and her husband live in Nanaimo with their 2 amazing children and pets.

**Tish Lakes**  
Legal Advocate  
**Okanagan Advocacy and Resource Society**  
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Trish is a Legal Advocate and Executive Director at Okanagan Advocacy and Resource Society, anti-poverty activist, and with extensive experience in legal advocacy through three sets of income assistance legislation. Currently Advocate Co-Chair of the Moving Forward Steering Committee with MSDPR as well as other committees; member of the Access 2 Justice BC Leadership Group, and board member of the Bridge Youth and Family Services Society.

**Vicky Law**

Lawyer

**Equitas Law Group**

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Vicky has worked in the fields of immigration law and family law for women experiencing intimate partner violence. In her career as a legal advocate and a lawyer, she has supported many women and families in navigating their immigration status in Canada, and the complexity of the family law system. Vicky obtained her Juris Doctor from the University of Saskatchewan and has built a legal career in BC where she passionately advocates for women's rights. Vicky is also a lawyer at Rise Women's Legal Centre for the Virtual Legal Clinic, a new initiative to provide legal services to women outside the Vancouver Lower Mainland. She finds innovative ways through technology to improve access to justice for women. Vicky is a gifted lawyer and pianist!

**Nyssa Lessingham**

Law Student

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Nyssa was the Coordinator of the Volunteer Legal Advocacy Program (VLAP) at the MS Society of Canada, BC & Yukon Division for the past three years. In this role as a poverty law advocate, she assisted numerous individuals with multiple sclerosis with long term disability claims to private insurers, including applications, appeals, updates, and changes in definition. She left her role at the MS Society in August of this year and is now a first year law student at the University of Victoria.

**Patricia Lim**

Publications Development Coordinator

**Legal Services Society**

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Patricia develops and evaluates Public Legal Education and Information (PLEI) materials and resources, and works with community organizations to help make legal information accessible and user-friendly to the public.

**Kevin Love**

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**Community Legal Assistance Society CLAS**

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Kevin is a lawyer in CLAS Community Law Program, working primarily in the areas of mental health and workers' rights. He has represented clients at all levels of court, both federally and provincially, including the Supreme Court of Canada. Prior to joining the Community Law Program, he worked in CLAS' Mental Health Law Program representing clients who were detained in psychiatric facilities under the Criminal Code. Kevin represents CLAS on a number of committees, including Worksafe BC's policy and practice consultative committee. He chairs the Workers' Compensation Advocacy Group, which is an independent network of worker advocates throughout British Columbia. Kevin acts as the supervising lawyer for the First United Church's legal advocacy program in Vancouver's downtown eastside.

**Raji Mangat**

Executive Director

**West Coast LEAF**

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At the core of Raji's wide-ranging legal career is a commitment to using the law as a tool for positive transformation. Her recent work has focused on access to justice, the impact of detention on women, and family law. Raji holds a law degree from the University of Victoria, a master's degree in international affairs from Carleton University, and a bachelor's degree in political science and international relations from the University of British Columbia. Raji serves on the boards of the Access Pro Bono Society of British Columbia, the Vancouver Public Library, and the One to One Literacy Society.

**Myrna McCallum**

Lawyer

**Miyo Pimatisiwin Legal Services**

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Myrna is an Indigenous (Métis-Cree) lawyer from the Métis village of Green Lake, Saskatchewan in Treaty Six territory and she is also a registered Indian at nearby Waterhen Lake First Nation. Myrna has spent most of her legal career working in Indigenous communities, most often serving survivors of sexual violence as a Crown prosecutor, an Indian Residential School adjudicator and an Investigations Director. Throughout her legal practice, Myrna learned a great deal about trauma, its impacts on memory, communication and behaviour and the significant difference applying a trauma-informed approach has on survivors. As a former Indian Residential School student (Lebret IRS) and foster kid (Sixties/Seventies Scoop), Myrna has identified the need for a healing-centered approach to advocacy and adjudication. Accordingly, she has become passionate about educating law students, lawyers and judges on Indigenous intergenerational trauma as well as trauma-informed legal practice. Myrna owns and operates Miyo Pimatisiwin Legal Services in North Vancouver, BC.

**Thea McDonagh**

Director of Advocacy

**Together Against Poverty Society**

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Thea has been an advocate at TAPS since 2009. In that time, she has worked as a tenancy and income assistance advocate and spent 5 years coordinating the Volunteer Disability Advocacy Project where she worked mainly on PWD reconsiderations and appeals. She recently took a position as Director of Advocacy and continues to work as an income assistance advocate. When not working, Thea likes to spend time outdoors with her kids and partner, snuggle with her cat and contemplate the never-ending weeds in her garden.

**Scott McGregor**

Director Compliance and Enforcement Unit

**Residential Tenancy Branch, Ministry of Municipal Affairs and Housing**

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Scott completed a 28-year career with the Victoria Police Department which ended in August, 2018. He was then hired by the Residential Tenancy Branch as the Director for Compliance and Enforcement and started in September 2018. Over the course of Scott's policing career, he worked in a variety of investigative disciplines including drug enforcement, organized crime, undercover operations and major crimes. He finished his career as a Senior Manager with oversight of homelessness, mental health and addiction as it pertains to policing the City of Victoria. Scott has been the Director for Compliance and Enforcement for a year now developing processes, the team and beginning the work of enforcing orders and conducting investigations into repeated or serious and deliberate contraventions of the Tenancy Laws in BC.

**M. Todd McPherson**

Managing Lawyer

**Parents Legal Centre, Vancouver (Legal Services Society)**

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Todd is the managing lawyer of the Legal Services Society's Parents Legal Centre in Vancouver. Todd received his Bachelor of Arts - Honours English degree from the University of Western Ontario in 1993 and his law degree from the University of Victoria in 1997. Todd was called to the bar of British Columbia in May 1998. He has represented parents with child protection matters for nearly 20 years. Todd ran his own practice for about 12 years before joining the PLC in March 2016, first as a staff lawyer, and more recently as managing lawyer. He was a guest speaker at the Continuing Legal Education Society's Child Protection Conference in April 2018 and has been a repeat guest instructor at the child protection class of the Professional Legal Training Course in Vancouver. In his spare time Todd enjoys playing guitar, trying to raise two French Bulldogs right, and travelling to distant locations when it all gets to be a little too much.

**Kendra Milne**

Senior Director of Policy

**CMHA BC**

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Kendra is a lawyer who works to use the law to create positive social change, particularly to support people who have traditionally been marginalized or disempowered in their communities. For eight years she ran a busy poverty law practice focused on housing, income supports and human rights, where she worked directly with hundreds of clients and with advocates throughout BC. She currently leads the mental health and substance use-related policy work at a large provincial non-profit organization, and has previously worked to reform law and policy to better support intersectional gender equality, economic security and housing security in BC. In her down time, Kendra dances with an amazing integrated dance company - her lack of skill is made up for by a lot of enthusiasm.

**Zuzana Modrovic**

Advocate

**Tenant Resource and Advisory Centre Society**

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Zuzana is a practicing lawyer in TRAC's direct representation program, focusing on assisting groups of tenants through dispute resolution proceedings. She graduated from UVic law in 2012, worked as a poverty law advocate at the Kamloops and District Elizabeth Fry Society, and completed her articles with the Community Legal Assistance Society.

**Suzette Narbonne**

Managing lawyer

**Society for children and Youth of BC, Child and Youth Legal Centre**

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Suzette Narbonne was called to the Manitoba bar in 1989 and began her career in The Pas with Legal Aid Manitoba. As counsel she travelled to isolated indigenous communities, conducting free legal advice clinics and litigating for her clients in criminal and family law cases - often in makeshift courts convened in band offices, recreation centres and hydro halls. Since 1995 she has practiced law in B.C. Suzette joined the Child and Youth Legal Centre at its inception in 2017, where she is managing lawyer, and has helped to shape the vision of child representation in B.C. She has mentored many lawyers through the CBA, has served as a Governor for the Law Foundation of BC, as a Bencher of the Law Society of BC, and as the Chair of the Legal Services Society. She currently serves as an elected member of the Provincial Council of the CBA.

**Adina Popescu**

Lawyer

**Legal Services Society**

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|

Adina obtained her JD from the University of Alberta in 2012 and was called to the BC Bar in 2013. Until 2018, she worked for a boutique law firm in the Lower Mainland practicing primarily in the areas of family law and child protection. Adina has appeared in both the Provincial and Supreme Courts of British Columbia representing clients with matters concerning parenting arrangements, protection orders, child and spousal support, property division, divorce and child protection. Adina started acting as a duty counsel roster lawyer in 2016, providing advice to self-represented litigants primarily at the Richmond and Surrey courthouses. In 2018 Adina joined the Legal Services Society as a staff lawyer where her responsibilities include continuing to act as family duty counsel on a regular basis and providing guidance and advice to Family LawLine staff.

**Amber Prince**

Staff Lawyer

**Atira Women's Resource Society**

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Amber has been a Law Foundation funded advocate at Atira since 2006. In 2014 she converted by advocacy position into an articling position and was called to the bar in 2015. Since 2015 she continued at Atira as a staff lawyer. Her work most often involves supporting women who have experienced gender-based and / or structural violence. Atira provides support (as available) with: provincial income assistance and disability benefits, tenancy, information & privacy, human rights, CRT claims, small claims, bylaw offences, fee waivers at all levels of Court and judicial reviews. We also provide limited support in debt, family law and CFCSA cases.

**Nate Prosser**

Project Analyst

**Legal Services Society**

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**Emily Rogers** (see participants list)

**Robert Russo**

Lecturer

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Dr. Russo obtained his LLB, LLM and PhD degrees from the Allard School of Law. His research has been primarily in the area of human rights, immigration and labour law and he has published several peer-reviewed articles in this field. He is currently the Lead Faculty Lecturer for the Master of Common Laws (LLMCL) program at Allard. He has taught first-year Torts, Transnational Law, Public Law, and Legal Research & Writing in the JD program, as well as Advanced Legal Research and Writing, Criminal Law, Administrative Law and Legal Ethics in the LLMCL and Distance Learning programs.

Dr. Russo worked as a legal researcher and litigation analyst before pursuing his PhD degree. He worked for almost a decade as a Resolution Manager and Acting Senior Resolution Manager with Crown-Indigenous Relations and Northern Affairs Canada. He was one of the Federal Government's representatives at hearings held across Canada to resolve individual claims related to federally operated residential schools. In that role he worked extensively with researching and resolving applications to the Indian Residential Schools Settlement Agreement's Independent Assessment Process.

**Danielle Sabelli**

Lawyer

**Community Legal Assistance Society (CLAS)**

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Danielle is a lawyer in the Community Law Program at CLAS and works primarily in the areas of residential tenancies and income assistance. She has provided representation to clients at various administrative tribunals and the BC Supreme Court. Prior to joining CLAS, Danielle worked as a Legal Advocate at First United Church, providing legal assistance, advice and representation to low-income and vulnerable people in the Downtown Eastside of Vancouver.

**Shannon Salter BA, LLB, LLM**

Chair

**Civil Resolution Tribunal**

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Sairoz has worked in the anti-violence sector for over 20 years. Her experience includes working in transition houses, victim services and with violence against women programs. She has worked with BC Housing for the last 10 years overseeing the administration of the women's transition houses, safe homes and second stage housing programs.

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Kevin is working on a feasibility study for SFBC, looking into the feasibility of different approaches to providing advance planning documents to low income adults outside the lower mainland of BC. Kevin is a graduate of Osgoode Hall Law School of York University, Ontario. He recently completed an LLM in Elder Law from the Center for Excellence in Elder Law at Stetson University. He is a member of the BC and Ontario Bar, and had worked as a legal aid lawyer for thirty years in Ontario. He recently worked as an elder law lawyer with Seniors First BC. This work focused on elder abuse matters including financial abuse and financial exploitation, as well as capacity issues, issues in seniors housing and residential care, and pension appeals. Kevin presently serves as the review counsel at the Access Pro Bono Wills Clinic at the downtown courthouse, and Probate Duty Counsel.

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Kathryn Spracklin is responsible for development of the LSS's strategic goals and performance measures for its annual service plan and oversees development of the policies that govern LSS's operations, including legal aid eligibility, tariff, and administrative. She also manages the research and data analysis that guide the society's decision-making.

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Carly is Métis from the Red River Métis community (Winnipeg) and the great-great-grand-niece of Louis Riel. She is the Community Lawyer for the BC Civil Liberties Association. Prior to joining the BCCLA Carly was legal counsel for two Parties with Standing (Vancouver Sex Worker's Rights Collective and the Liard Aboriginal Women's Society) in the National Inquiry into Murdered and Missing Indigenous Women and Girls. Carly has represented Indigenous clients in child protection and criminal matters, worked as the inaugural Gladue Lawyer for Legal Services Society of BC, and taught as an Adjunct Professor at the Peter A. Allard School of Law at UBC. Carly was the inaugural articling student at the Indigenous Community Legal Clinic in the Downtown Eastside of Vancouver. She has written Gladue Reports for individuals in Provincial and Supreme Courts of British Columbia. Carly is a board member of Wish Drop-In Centre Society and Rise Women's Legal Centre. In addition to her experiential knowledge as a result of her cultural background, she has worked for and developed relationships with individual Indigenous clients, elders, families and communities across Canada for over a decade.

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Martin is a civil litigator who focuses his practice on insurance denials, including denied long-term disability claims, critical illness claim denials, mortgage insurance denials and life insurance denials. He represents clients throughout British Columbia. Martin has a special interest in autoimmune diseases and “invisible” conditions, and represents clients with conditions such as myalgic encephalomyelitis, chronic fatigue syndrome, fibromyalgia, chronic pain, headache disorders, ankylosing spondylitis, Multiple Sclerosis, Lyme Disease, Postural Orthostatic Tachycardia Syndrome (“POTS”), lupus and other autoimmune disorders. He is recognized as legal resource by the Myalgic Encephalomyelitis and Fibromyalgia (ME|FM) Society of BC. He is a supervising lawyer for the MS Society of BC, and he has worked closely with other organizations such as Pain BC by providing education on long-term disability claims. His firm is counsel for the Resident Doctors of BC on insurance matters.

Martin also represents clients with disorders that involve, or are associated with, psychiatric illness, including depression, anxiety, bipolar disorder, PTSD and dissociative identity disorder. At the invitation of the BC Psychological Association (BCPA), Martin frequently acts as moderator at Ethics Salons for psychologists on discussions related to mental health disability claims. He has appeared in all levels of court in BC, as well as the Federal Court of Appeal. Outside of the courtroom, he has represented clients in front of administrative tribunals and before the Pension Appeals Board.

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Caitlyn has been a settler/occupier on the unceded territories of the W’SANEC and Lekwungen-speaking peoples since birth. She was born with a physical disability and uses a wheelchair for mobility. She graduated in 2012 from the University of Victoria with a degree in Anthropology; and in 2018 completed the Mental Health and Addictions certificate program at Camosun College. She is currently pursuing a Bachelor’s of Social Work at the University of Victoria. She first began at TAPS as a disability volunteer advocate in 2014 and was hired in 2017 as a federal disability advocat providing information, summary advice, full representation to individuals applying for Canada Pension Plan Disability Benefits, and assisted individuals applying for the Disability Tax Credit. In September 2019 she became the Coordinator of the Volunteer Disability Advocacy Project which helps individuals apply for Persons with Disabilities Designation in additon to her other role as Office Coordinator.

# 1. Family and child protection

# Provincial Advocates Conference

## Family Law Update

October 8, 2019

Agnes Huang

Saltwater Law

# Date of Separation

Section 3(4) of the FLA

For the purpose of this Act,

- (a) Spouses may be separated despite continuing to living the same residence, and
- (b) the court may consider, as evidence of separation
  - (i) communication, by one spouse to the other spouse, of an intention to separate permanently, and
  - (ii) An action, taken by a spouse, that demonstrates the spouse's intention to separate permanently.

# Date of Separation

***Bartch v. Bartch***, 2019 BCSC 1643 (Madam Justice Young)

Principles drawn from case law:

- A meeting of the minds on the intention to separate is not required.
- Physical separation combined with one party's intention to live separate and apart, is sufficient.
- Not enough for one party simply to form a subjective intention to separate. There must also be some objective evidence that the party wishing to separate communicated that intention to the other party and took action consistent with that intention.
- Useful to compare pre- and post-separation behaviour. Sexual involvement, or lack thereof, is not conclusive.

**Objective evidence from the relevant time frame is “more probative of the nature of the parties relationship than *viva voce* evidence of the parties in the midst of acrimonious and bitter proceedings.**

# Date of Separation

citing *Coupar v. Roh*, 2014 BCSC 1392 (Mr. Justice Harvey)

Can parties remain in a marriage-like relationship while living, for an extended period of time, under different roofs? Yes.

Factors considered:

- Lack of changes to distinguish the relationship before moving into separate residences and after moving into separate residences
- Regular interaction between the parties including occasional dining out or attending events together
- Continuing to perform domestic services, cooking, cleaning and laundry
- Continuing to attend social functions together
- Portraying selves as a couple
- Making gifts to one another
- Taking vacations together
- Neither party becoming involved in another relationship
- Continuing to share common use of assets
- Whether one party told the other party of the intention to permanently end the relationship

# Date of Separation

In *Bartch*, four alternative dates of separation were proposed:

**Claimant:** December 30, 2012 or May 8, 2013

**Respondent:** November 30, 2013 or Spring 2014

December 30, 2012 – when she witnessed respondent engaged in a public sexual act in a night club during a trip to Las Vegas. Claimant swears that upon witnessing event, the marriage was over in her mind. But... she did not communicate this to the respondent then or possibly ever until preparing for this trial.

“Being angry and keeping that anger bottled up for months or years does not communicate to the other party that the marriage is over. It only communicate to the other party that the marriage is unhappy.”

# Date of Separation

And the winner is... **May 8, 2013**

- Claimant took steps to set up her own company and she opened new bank accounts
  - She consulted a divorce lawyer
  - She ceased sharing a bedroom with the respondent in early 2013
  - She vacated the family home as much as possible
- Plus...* the respondent left for Las Vegas in May 2013 and entered into a one-year lease in his sole name

# Date of Separation

The only definitive moment the judge found was when the respondent told other people in April and May 2013 that he was unhappy in his marriage and decided to go to Las Vegas and start a new life. The Respondent only came back because he was unsuccessful in his business. The Claimant interpreted his actions to mean that they were separated.

“It is difficult to determine a date of separation with a couple who do not argue and do not communicate. There is no clear date when the parties said the marriage was over and agreed that they wanted to separate.”

# Date of Separation

***C.A.L. v. D.E.L.***, 2019 BCSC 1483 (Mr. Justice MacKenzie)

The fact that a party stated “married” on her income tax return has little impact on the analysis; it does not undermine when parties separated.

# Parental Responsibilities

## Section 41 of the *FLA*

- Making day to day decisions; having day to day care, control and supervision of child
- Making decisions where the child will reside
- Making decisions re whom the child will live and associate
- Making decisions re child's education and extra-curricular activities
- Making decision re child's culture, linguistic, religious and spiritual upbringing, especially if child is Aboriginal
- Making decision re child's health care
- Applying for a passport or other benefits
- Giving or refusing consent
- Receiving any notice a parent or guardian is entitled to receive
- Requiring information from 3<sup>rd</sup> parties
- Starting or defending a proceeding on behalf of a child
- Exercising any other responsibilities necessary to nurture the child's development

# Best Interests of the Child

## Section 37(2) of the *FLA*

- Child's health and emotional well-being
- Child's views unless inappropriate to consider them
- Nature and strength of relationship with significant persons
- History of child's care
- Child's need for stability
- Ability of guardian/person seeking guardianship to exercise parental responsibilities
- Impact of family violence
- Whether person responsible for family violence is impaired in ability to care for child
- Appropriateness of arrangements requiring cooperation of guardians; would it lead to increased family violence
- Any civil or criminal proceedings relevant to child's security or well-being

# Best Interests of the Child

**C.T.M. v. T.J.M.**, 2019 BCSC 1630 (Mr. Justice Verhoeven)

## *Child's health and emotional well-being*

- Judge noted that the father had a habit of relying heavily on fast food restaurant meals (according to his spending records). He has a problem with weight control and Judge was concerned that his habit would affect the child.
- However, Dr. Elterman did not discuss nutrition in his section 211 report and the mother did not raise this to Dr. Elterman or at trial.
- Judge did not place significant weight on the matter, but flagged it as an area of concern for the parties and, possibly, future decision makers.

## *Child's views (9 year old)*

- Child told Dr. Elterman she wanted more time with father and less time with mother; Judge opined it might be because father has a farm with animals
- Judge interviewed child who did not express any preference for one parent over the other

## *Ability to exercise responsibilities*

- Mother has demonstrated poor judgement in the past, mostly related to drug abuse. Judge recognizes mother's questionable judgement may well be due to factors or circumstances beyond her control, such as addiction and mental health issues. Task is not to assign fault or assess causation. However, Judge finds that father is more likely to exercise good judgement and less likely to exercise poor judgement.

# Best Interests of the Child

*Arrangements that would require the child's guardians to cooperate*

85] This factor seems designed to encourage cooperation in decision making affecting the child between the child's guardians, where appropriate. Clearly, in an appropriate case, cooperative decision-making would be desirable. However, in other cases, of which this is one, conflicts are more likely to be avoided if one parent has primary decision-making responsibility.

[86] In relation to decision-making authority, in *J.A.F. v. J.J.F.*, 2019 BCSC 507, I stated:

- [24] A summary of considerations that have been applied in other cases in relation to the issue of decision-making authority is set out in *J.E.H. v. P.L.H.*, 2013 BCSC 752. At para. 58, Abrioux J. wrote:
- there has been a general unwillingness to impose mandatory joint decision-making on parents who cannot get along and are unable to communicate. This is out of concern for the well-being of the children;
  - the ability of the parents to communicate and cooperate remains an important factor when considering the best interests of a child: *Jordan v. Jordan*, 2001 BCSC 1058 at para. 20
  - joint guardianship with no ultimate decision-maker may not be appropriate on the basis that the cost and delay of applying to court each time the parents cannot agree is not warranted. Ultimately a decision has to be made. In such circumstances, the primary caregiver is best able to make the decision after making an effort to seek a consensus with the other parent: *Andrew-Reed v. Reed*, 2002 BCSC 513 at paras. 17-18
  - a particular parent's understanding of the general and special needs of a child, such as autism spectrum disorders, is a factor which can be taken into account with respect to custody, guardianship, where the primary residence should be and which parent should have the ultimate decision-making power: *M.H.K.J. v. K.J.J.*, 2011 BCSC 1673 at paras. 78-82
  - final decision-making authority can be ordered in situations to avoid continuing conflict due to the level of acrimony between the parents: *S.M.M. v. J.P.H.*, 2011 BCSC 1084 at para. 227
  - the Joyce model of guardianship may well be appropriate if the court is satisfied the primary custodial parent will in fact consult and seek the input of the other parent prior to making major decisions: *Chin v. Frass*, 2011 BCSC 272 at para. 29.'

Other cases will have added considerations; very fact specific. "The analysis is inevitably highly context-specific.

# Best Interests of the Child

***Dodginghorse v. Limas***, 2019 BCSC 1385 (Mr. Justice Wilson)

8 year old Amelia lives with mother in Chase; father lives in Texas.

Where should Amelia live?

## *Child's health and emotional well-being*

- Amelia as an indigenous child with status under the *Indian Act* has access to free health care, dental care and other medically necessary health benefits; not available to her in Texas.
- Father cancelled Amelia's counselling because he thought counsellor was affiliated with mother

## *Child's Views*

- Hear the Child Report; Amelia is a perceptive child; wants to live with mom and see dad in Texas in summer and in B.C. during spring break.
- When asked why Amelia wants to live with her mother, the father's answer is because the mother "beats her". No evidence to support this very serious allegation.

# Best Interests of the Child

## *Child's need for stability*

- Amelia missed 18 days from school; mother explains it was due to death in family, step-father's surgery and her own surgery and other illnesses.
- Judge flagged absences as concerning but noted Amelia report card showed adequate progress

## *Ability to exercise responsibilities*

- Mother has some relatively recent criminal charges; frustrated some of the father's parenting time
- Father unwilling to be flexible with the timing of his calls

# Best Interests of the Child

## *Additional Factor – Amelia’s indigenous heritage*

- Two witnesses gave evidence about cultural activities in the Shuswap Nation, and the effort within the community to preserve the Shuswap language.
- Amelia is learning the language at her school.
- Important that Amelia learn of her culture and heritage; she is actively engaged in her indigenous community while living in Chase
- This is “not simply aspirational as it relates to Amelia, but is already a fundamental part of her life”.

# Best Interests of the Child

Section 37(3) of the *FLA*

An agreement or order is **not** in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.

# Best interest of the child

***Forrest v. Forrest***, 2019 BCSC 1323 (Mr. Justice MacIntosh)

Three children – 17 year old boy and 10 year old twins

An appeal of an arbitrator's award declining the mother's application to move with the twins to Toronto.

Arbitrator found, unequivocally, the twin's emotional well-being would be best served if they could be with their mother. Section 211 report writer had said that the twins would experience emotional harm and would require therapy in order to adjust to their mother's absence should she move without them.

Still, the arbitrator ordered twins stay in Saanich with father and older brother.

Appeal allowed. Judge found the arbitrator's decision contrary to section 37(3) of the *FLA*. Arbitrator focused on relationship of twins with the brother.

Judge remitted the matter to the arbitrator with the Court's opinion on the question of law.

# Guardianship

## Parents are generally guardians

**39** (1) While a child's parents are living together and after the child's parents separate, each parent of the child is the child's guardian.

(2) Despite subsection (1), an agreement or order made after separation or when the parents are about to separate may provide that a parent is not the child's guardian.

(3) A parent who has never resided with his or her child is not the child's guardian unless one of the following applies:

- (a) section 30 [*parentage if other arrangement*] applies and the person is a parent under that section;
- (b) the parent and all of the child's guardians make an agreement providing that the parent is also a guardian;
- (c) the parent regularly cares for the child.

# Guardianship – regular care

***S.J.F. v. R.M.N.***, 2013 BCSC 1812 (Mr. Justice Punnett)

The father never lived with the child. Of the circumstances referred to in s. 39(3) only ss. (c) might apply. In this case, as I noted earlier, the father at best saw his son on a weekly basis between the end of May 2012 and August 2012. He also acknowledged that there had been a three-week interruption in the contact during that period. In my view such limited contact cannot be characterized as him having “regular care” of the child. As a result the father is not presumed to be a guardian. He must instead apply to become a guardian.

***Doyle v. Handley***, 2018 BCSC 293 (Mr. Justice Armstrong)

Test: “willingness to provide for the child’s ongoing needs” and record of “usually” or “normally” doing so, more than just simply visiting the child at regular intervals.

# Informal Parenting Arrangements

## Section 48 of the *FLA*

(1) If

(a) no agreement or order respecting parenting arrangements applies in respect of a child, and

(b) the child's guardians have had in place informal parenting arrangements for a period of time sufficient for those parenting arrangements to have been established as a normal part of that child's routine,

a child's guardian must not change the informal parenting arrangements without consulting the other guardians who are parties to those arrangements, unless consultation would be unreasonable or inappropriate in the circumstances.

(2) Nothing in subsection (1) prevents a child's guardian from seeking

(a) an agreement respecting parenting arrangements, or

(b) an order under section 45 [*orders respecting parenting arrangements*].

# Informal Parenting Arrangements

**T.P.H. v. B.A.B.**, 2019 BCPC 151 (Judge Doulis)

[72] Where, as in this case, there are no existing orders allocating parenting, [s. 48](#) of the [FLA](#) prohibits any unilateral changes to informal parenting arrangements once they have become a part of a child's routine.

**D.M.M. D.F.**, 2015 BCPC 310 (Judge Keyes)

[37] It is also clear from the evidence that after the final separation of the parties in June 2013, Mr. F. did not see S. at all because Ms. M. did not allow it. Thus there were no informal parenting arrangements in place. I find, therefore, that the requirement of [s. 48\(1\)](#) of the [FLA](#) that a guardian must consult with the other guardian before changing any such arrangements does not apply, because there were no established parenting arrangements creating a routine to be disrupted.

*This was a relocation case. Issue was whether does mom had to return to Prince George from Kelowna, and which provisions of FLA for the relocation applied: section 46 or Part 4, Division 6.*

*Mom not ordered to return to Prince George. There was a history of family violence by the dad against mom, which child had witnessed. Dad's parenting time was to be supervised.*

# Testamentary Guardian

*N.H. v. D.H.*, 2013 BCPC 413 (Judge Dhillon)

[96] Under s. 53(1) of the [FLA](#) a guardian may appoint a guardian to act upon his or her death. An appointment of a testamentary guardian may be made by will or by Form 2 under [s. 53\(1\)](#). Appointments made by Form 2 must be signed in the presence of two witnesses, neither of whom are the appointed guardian ([s. 53\(1\)](#)).

[97] The mother does not need permission of the court to appoint her sister as a testamentary guardian because she can do so by virtue of the provisions of the [FLA](#). To the extent that the court is required to opine, I accept and find that making such a provision for a guardian in the event of the death of a parent and guardian is in the best interests of the child. It preserves the maternal family connections for the child. There is no basis in law for the father to oppose such a designation. He is also able to appoint his own testamentary guardian.

# Contact

Section 59 of the *FLA*

***Fawcett v. Read***, 2016 BCSC 310 (Madam Justice Russell)

Ms. Read has a 9 year old daughter; not Mr. Fawcett's child

Mr. Fawcett has onus of establishing that contact with him is in the best interests of the child; onus not on Ms. Read to prove that contact is against the child's best interests.

Deference to the custodial parent's views is a relevant consideration, subject to any other evidence with respect to the best interests of the child. Ms. Read concerned that the conflict with Mr. Fawcett is impacting negatively on the child.

Positive relationship with child not sufficient to warrant ongoing contact with a child in the wake of a break up.

Contact not granted.

# Contact

***D.D. v. A.C.***, 2017 BCPC 6 (Judge Kortubash)

D.D. was the grandmother; A.C. was the father; mother died, multiple sclerosis.

Grandmother filed an application for contact only weeks after he daughter passed.

[46] An important responsibility going forward is to minimize any conflict between her and Mr. C. Increasing the level of conflict would clearly not serve S's best interest.

[47] Ms. D chose to file her application only weeks after her daughter passed. She said she had been given advice to do so by a worker for the Ministry of Children and Families; it was poor advice. The filing had the potential of alienating Mr. C further and severing any relationship that she may have had with him and consequently S.

[48] Contact is to promote the best interests of the child. Unfortunately, sometimes adults forget this and children become the means through which adults seek what they consider their "rights".

[49] I am confident that Ms. D now recognizes and appreciates how fragile relationships can be and the need to minimize and shield S from conflicts going forward.

...

[52] In the midst of tragedy, people often lose their way, and say and do things they otherwise would not. That happened here. To hold people responsible forever for their actions at a time when they were emotionally vulnerable is rarely the right thing to do. Although these events affected Ms. D's relationship with Mr. C, there is no reason that it has to affect or damage S's relationship with her.

# Contact

[53] While I applaud Ms. D's persistence in remaining a part of her granddaughter's life, her pursuit of a resolution in the courts so soon after the passing of her daughter was not ideal.

[54] I am confident that the parties can, and will, set aside any conflict that has arisen and put S's interests first.

[55] Resuming and continuing contact with her grandmother will serve S's best interest.

[56] However, Ms. D must accept that she is grandparent and not parent. A grandparent is ordinarily entitled to contact at the time and for the duration and under the conditions the parent agrees to. Despite everything her grandmother has to offer, there are sound reasons why it is not in S's best interests to resume the same level of contact she had when S's mother and Mr. C were together and lived in Oliver. S now lives in Greenwood, and is in the process of bonding with her new family unit. She is beginning to participate in extracurricular activities and will soon be attending school.

Contact Order – four hours one day each month; Skype, facetime or telephone call every second Sunday for 15 minutes; liberty of parties to increase contact. To be reviewed in 12 months.

# Variation of a Contact Order

Section 60 of the *FLA*

On application, a court may change, suspend or terminate an order respecting contact with a child if satisfied that, since the making of the order, there has been a change in the needs of the child, including because of a change of circumstances of another person.

***D.L.G. v. S.M.S.***, 2015 BCPC 43 (Judge MacCarthy)

Father's contact had to be supervised, in an Order made in 2012. At the time, he had unresolved criminal charges, chronic unemployment, lack of stable housing, and was a frequent user of marijuana.

Significant changes in father's life: stable relationship, took parenting counselling, obtained gainful employment, and was paying child support. The children's lives also changed.

Judge found this met the test of a material change of circumstance for purpose of contact order. Father granted unsupervised and overnight contact.

Note: Judge looked at different sections of the *FLA* having a material change of circumstances test, and noted that the test was not the same under section 47 for change to guardianship arrangement or parental responsibility. It was a more stringent test.

# Denial of Parenting Time

## Section 61 of the *FLA*

- Entitled to parenting time or contact by agreement or order
- Application made within 12 months of denial

## Section 62 of the *FLA*

### Not wrongful if:

- Child might suffer family violence
- Believe other person was impaired by alcohol or drugs
- Child suffering illness, medical note
- Other person failed to exercise parenting time
- Other circumstances the court considers to be sufficient justification for the denial

# Denial of Parenting Time

***K.R. v. J.W.***, 2016 BCSC 225 (Mr. Justice Betton)

[57] Parenting time that has been included in an agreement or that has been ordered must be respected. If not appealed or varied, compliance cannot be viewed as optional. The time constraint in s. 61(1)(b) ensures some contemporaneity between the alleged denial and the remedy, thus serving as well to focus on the best interests of the children. [Section 62](#) ensures reasonable denials are permitted, again consistent with the best interests of the children being the only consideration.

[58] In my view, the objective of the provisions is to give the court a broad discretion that can be adapted to each unique situation. It would be inconsistent with the broad objectives to limit the remedies to only discrete events of an express denial.

[59] A pattern of wrongful conduct that frustrates an agreement or order such that parenting time is not fully available is a wrongful denial. A parent need not say the word “no” to scheduled parenting time for them to communicate a denial nor must they physically prevent the parenting time from occurring for it to be a wrongful denial. The cumulative effect of less definitive words and actions may suffice.

[60] When a child is resisting the parenting time accorded a parent by the order or agreement, it is appropriate to view the origins of that resistance. A parent who encourages that resistance by words and/or actions can, in my view, be said to be denying parenting time and, depending on the circumstances, it may be a wrongful denial.

[61] In circumstances such as this case, an assessment of the parent’s response to that resistance can be critical. If the response is situationally appropriate but ultimately unsuccessful in overcoming the resistance, the parent should not be found to have wrongfully denied parenting time.

# Denial of Parenting Time

*D.N.L. v. C.N.S.*, 2014 BCSC 1417 (Mr. Justice Pearlman)

Child 12 years old; intelligent and mature. Because of dad's derogatory remarks about mother and grandparents, outbursts of anger, and refusal of dad to allow child to go home mom's, child is angry with dad and apprehensive about contact with him.

Use of force to compel child to accompany him, and child's refusal to go with father led mother to believe there was a real risk of physical altercation between dad and child. Judge found mom reasonably believed child might suffer from family violence. Concerns for child's physical and emotional safety provide justification for denial of parenting time under s. 62(1)(a) and (f).

Not wrongful

# Denial of Parenting Time

**N.C. v. N.C.**, 2017 BCSC 2311 (Mr. Justice Saunders)

12 year old boy; complex psycho-emotional status; presents behaviourally as an 8 year old; struggles with truth-telling and confabulation.

J disclosed dad had hit him on the head and kicked him on the knee to counsellor; reported to MCFD

[68] As to the application for relief in respect of the denial of parenting time, I find that the respondent has wrongfully denied parenting time to the claimant. None of the justified categories for the denial of parenting time specified in [s. 62](#) of the [FLA](#) came into play in the circumstances of this case. In particular, given J.'s issues with truth telling, the respondent had no reasonable apprehension that there had been family violence between C. and J. In fact, the respondent's behaviour suggested otherwise, as she allowed J. to be in his father's care the week of March 17. Parenting time was denied by her thereafter not because of apprehended violence, but because the claimant would not accede to her demand that he participate in a meeting with counsel to discuss parenting and that he undergo counselling.

Wrongful

- Fine of \$500 awarded to dad

# Failure to Exercise Parenting Time

Section 63 of the *FLA*

***A.K. v. J.R.J.***, 2019 BCSC 868 (Mr. Justice G.C. Weatherill)

Mother (respondent) failed to exercise parenting time.

[34] The respondent does not dispute that in such event, she has an obligation to contribute to D.'s daycare expenses, but submits that the expenses should be shared by the parties proportionate to their respective incomes. The respondent also submits that any expenses associated with a nanny would be in respect of respite, which is not an [s. 7](#) expense: *Estes v. Estes*, [2014 BCSC 2086 \(CanLII\)](#) paras. 37 and 38; *Johnstone v. Johnstone*, [2018 BCSC 297 \(CanLII\)](#) at para. 27.

[35] In my view, fairness dictates that all daycare and nanny expenses reasonably and necessarily incurred by the plaintiff for D.'s care during times when the respondent would otherwise have been responsible for his care be paid by the respondent, and where she has failed to exercise her parenting time without reasonable excuse. The claimant is entitled to a declaration, rather than an order, to that effect because [s. 63\(1\)\(b\)](#) of the *FLA* contemplates reimbursement of expenses actually incurred rather than those that may be incurred in the future. The claimant will be required to demonstrate that the expenses he incurred were "reasonable and necessary".

# International Child Abduction

Section 80 of the *FLA*

***De Oliveira v. Campbell***, 2019 BCSC 623 (Madam Justice MacNaughton)

Application of the SCC decision in *Balev*: hybrid approach. Rather than focusing primarily on parental intention or the child's acclimatization, court is to look at all relevant considerations in the case before it.

Look at the child's life, family and social environment, immediately prior to the removal or retention. Parental intention, child's connection to home state and to other state. Links to country A; reason for removal from country A to country B, links to and circumstances in country B.

Court found the child's habitual residence in Portugal; she was to be delivered to mom to be returned to Portugal.

# Restraint on Asset Disposal

Section 91 of the *FLA*

*Foster v. Sauve*, 2019 BCSC 1656 (Master Elwood)

Order granted against Mr. F disposing of his interests in his architecture partnership, one account and two pensions. No restraining order granted for all of Mr. F's bank accounts, nominal amounts. Likely to have "unintended consequences" in terms of Mr. F's ability to meet his living expenses and support obligations.

*Hollet v. Colingwood*, 2019 BCSC 1591 (Madam Justice Iyer)

Exceptions granted – two specified bank accounts needed for the ordinary course of business.

CPL not sufficient, only notice to the world re pending litigation; does not prohibit party from dealing with the property.

# Protections Orders

## **Section 183 of the FLA**

*(see also section 1, definitions of family violence and family member)*

- A family member who is, or is likely, at risk of family violence may obtain a variety of protective orders designed to protect the family member from harm: limits on physical contact and communication, directions to police to remove a person from the home, prohibition on possession of weapons
- Applications can be brought by the family member or another person on behalf of the family member

# Family Violence

***B.G.M.S. v. J.E.B.***, 2018 BCSC 1628 (Madam Justice Fleming)

Madam Justice Fleming reviews a number of acts:

- Abusive text messages
- Financial abuse (threatening to pay less support)
- Physical violence
- Break and enter
- Physical harm to child
- Criminal history
- Dangerous driving
- Drug trafficking
- Substance Misuse

Madam Justice Fleming also assesses the Mother remaining in an abusive relationship: Mother's evidence of why she stayed in compelling – caught in his web of lies; internalized his verbal and emotional abuse; blamed herself; was embarrassed. Over time, she began feeling better about herself.

# Protection Orders

***B.H.C. v. F.G.J.P.***, 2017 BCPC 378 (Judge Malfair)

Walks through evidence for each of the factors set out in section 184 of the *FLA*

- (a) History of family violence
- (b) Repetitive or escalating
- (c) Pattern of coercive and controlling behaviour
- (d) Current status of relationship
- (e) Any circumstance that may lead to increase risk
- (f) At risk family member's perception of risk
- (g) Any circumstances that might increase vulnerability

Judges must take a broad and contextual perspective, taking into account a variety of factors in determining whether family violence is likely to occur.

# Protection Order

Dennis v. Gill, 2019 BCSC 1533 (Mr. Justice Brundrett)

[134] The relationship between the claimant and the respondent was volatile at times. The claimant has alleged, and I accept, that the respondent was violent towards the claimant on three occasions. The respondent has demonstrated controlling and coercive conduct at times since separation.

[135] I am satisfied that a protection order under s. 183 is appropriate. In coming to this conclusion, I have had regard to the factors enumerated in [s. 184](#) of the [FLA](#). I also consider that the likelihood of violence will be greater over the coming year in the aftermath of what will be the respondent's forced removal from the former family home

[136] The respondent has shown himself to be occasionally vindictive and impulsive in the past, and the likelihood for a recurrence of family violence over the near term is higher. Therefore, there will be a protection order as sought by the claimant for a period of one year.

# Protection Orders

*S.J.J. v. J.A.R.*, 2019 BCSC 534 (Mr. Justice Blok)

[296] The incidents relied upon by Ms. R. are not very convincing. They include an incident where, at age 13, Mr. L. hit another child (apparently of the same age) at a hockey game. Other incidents relied upon are at least somewhat more relevant but, taken as a whole, they fall short of demonstrating that family violence is likely to occur in future.

[297] Some of the incidents relied upon by Ms. R. involve expressions of anger on Mr. L.'s part. None of those incidents involved physical violence directed at Ms. R. On one of the occasions Mr. L. pushed past Ms. R. in order to retrieve one of the children. On another occasion Mr. L. pulled on a child's car seat in an angry fashion and the seat hit Ms. R. in the face. Even Ms. R. conceded this was likely inadvertent. ...

[299] Given the nature and relative infrequency of these incidents, I conclude that these are isolated events caused by situational factors and are unlikely to arise again if conflict over the children's schedules is reduced. ...

# Protection Orders

***Y.Z. v. A.C.***, 2019 BCSC 1564 (Mr. Justice Milman)

Protection Order – renewal and extend to restrict father’s communication with mother and children. Indefinite order but father has liberty to apply after one year to remove the protection order.

***M.S. v. K.S.***, 2019 BCSC 1458 (Madam Justice Horsman)

Protection order – communication concerning but no indicate a risk of FV. Continuing the conduct orders with remedies sufficient.

# Conduct Orders

***N.W. v. C.R.***, 2018 BCPC 194 (Judge Merrick)

Conduct Orders:

- Communicate via email and text
- Be respectful
- Respond in timely manner (text) and within 3 days (email)
- Response to be clear and thorough and address all issues presented
- Not use child directly or indirectly to gather info about other parent
- Not schedule parenting time through child
- Not suggest attractive alternatives to child rather than parenting time
- Not blame, criticize or belittle the other parent to child
- Not schedule activities on other parent's time
- Encourage child to contact other parent
- If travelling overnight with child, let other parent know
- Do everything reasonably possible to obtain a passport for child
- Copy other parent if communicating with counsellor

# Alternative to a Protection Order

*L.H. v. S.L.*, 2019 BCPC 214 (Judge Giardini)

5. Under s. 225 of the [Family Law Act](#) the parents must not communicate directly or indirectly with each other, except by emails or texts and then only and strictly for the purpose of discussing matters relating to the Child. Each parent shall ensure that the text/email messages exchanged with the other parent are respectful. Each parent shall also ensure that he/she responds to those emails/texts promptly (that means within 24 hours or less) and deals with the subject matter addressed by the other parent.
6. Under s. 227 (c) of the [Family Law Act](#), neither parent shall attend or enter, or be found at any residence, place of employment, place of education, or place of worship that each parent knows the other parent likely attends.
7. Neither parent shall record the other parent by electronic means or otherwise, this includes but is not limited to videotape, audiotape, or photographs, at the pickup or drop-off exchanges of the Child.

# Misuse of Court Process

Section 221 of the *FLA*

***Raabe v. De Jong***, 2019 BCSC 1177 (Mr. Justice Jenkins)

[20] Based upon the evidence above regarding, in particular, the conduct of the respondent and the lack of any material change in circumstances since the trial, is the claimant entitled to an order under [s. 221](#) of the *FLA* requiring the respondent to seek leave of the Court before he files any further applications in this proceeding?

[21] I have referred to the many orders made in this proceeding, exceeding fourteen in number, the inability of the respondent to accept responsibility for his conduct and his applications for changes in parenting time with little or no evidence supporting a change in parenting time. The time and cost, let alone the stress of continuing with a long line of applications justifies an order requiring leave. The continuing applications reflect an inability or unwillingness on the part of the respondent to accept the orders made to date. The respondent has continued to demonstrate disregard for court orders, similar to his actions referenced in the trial reasons, when the respondent arbitrarily reduced the amount of spousal support he had previously been ordered to pay.

[22] Going forward, before filing any applications, the respondent must obtain leave of this Court by submitting to the Court through Supreme Court Scheduling, any form of notice of application and supporting affidavits upon which the respondent intends to rely.

[23] Based upon the conduct of the respondent and reference to the authorities referred to respecting the objects of the remedies in [s. 221](#) of the *FLA* and finally to discourage the respondent from proceeding with further unmeritorious applications, he is ordered to pay a fine to the Court in the amount of \$2,000 payable within 30 days of the date of these reasons.

The Court also ordered respondent to pay reasonable special costs for the vexatious application.

# Resources for Family Advocates

*By Taruna Agrawal, FASL*



WOMEN'S LEGAL CENTRE

# RISE WOMEN'S LEGAL CENTRE

- Our goal is to maximize outcomes for our clients and support them in navigating the legal system.
- Student clinic
  - Some representation (in court)
  - Limited retainers
  - Court locations accessible by transit



# Family Advocate Support Line Lawyer

- telephone support line designed to help family advocates, front-line workers, and support workers (collectively, “Support Workers”) in BC.
- legal information and advice about family law and, at times, other intersecting areas
- Help is offered primarily for matters involving divorce, separation (including separation agreements), child support, extraordinary expenses, spousal support, relocation, among other family law matters.
- Provincial or Supreme Courts within BC.



# FASL

- Provide training on matters of family law
- Tailor to your unique needs
- Let's talk

## *Please note:*

- This program **only** provides assistance to Support Workers. If you have a legal issue you need assistance with, and you are not an advocate or community worker, please visit [womenslegalcentre.ca](http://womenslegalcentre.ca) to get the information that you need.



# Povnet ListServ for Family Law Personnel

- [family-law-bc@povnet.org](mailto:family-law-bc@povnet.org)
- Register!
- Post your questions
- Hear from like-minded folks



# Question sample

- “A client wants to travel with the child outside of Canada. OP will not sign consent letter for children travelling abroad. We are going to apply to the court to ask permission for her and the child to be able to travel. OP probably will not consent, as he is concerned that she will not return. Is it possible that the judge will agree with the OP and not allow her and the child to travel, even if she has a return ticket back to BC for the child?”
- Question is about the likelihood of success of an application to travel with the child



# Responses

- i. "In my experiences have been varied. One factor the court may consider is whether the country is a signatory member of the Hague Convention. If not it may strengthen the OP's argument against removing a child from a country."
- li. "you could also add details about your client's ties to Nelson (or wherever she is from). Basically, you're showing that she has lots of reasons to return. So, if she has any family in town, that helps. Does she have a job? Is the child in school and has friends? Does the child speak the native language of the country that she wishes to visit? Is the child doing well in school? If the child has friends here and doesn't speak the language at home and is doing well at school, all of these are factors that make it more likely that the client will return."



- Very valuable to get different people's input
- Others will learn from your questions
- Not uncommon to receive multiple responses
- If you post something and don't get a response, send it to me at [tagrawal@womenslegalcentre.ca](mailto:tagrawal@womenslegalcentre.ca) I will do my best to respond
- If it is time sensitive, please indicate a date by which you would like (need?) a response
- Aim to give me 48 hours.



# THANK YOU!

[www.bit.ly/risefast](http://www.bit.ly/risefast)

604-398-5975

[tagrawal@womenslegalcentre.ca](mailto:tagrawal@womenslegalcentre.ca)



WOMEN'S LEGAL CENTRE

NOT LEGAL ADVICE



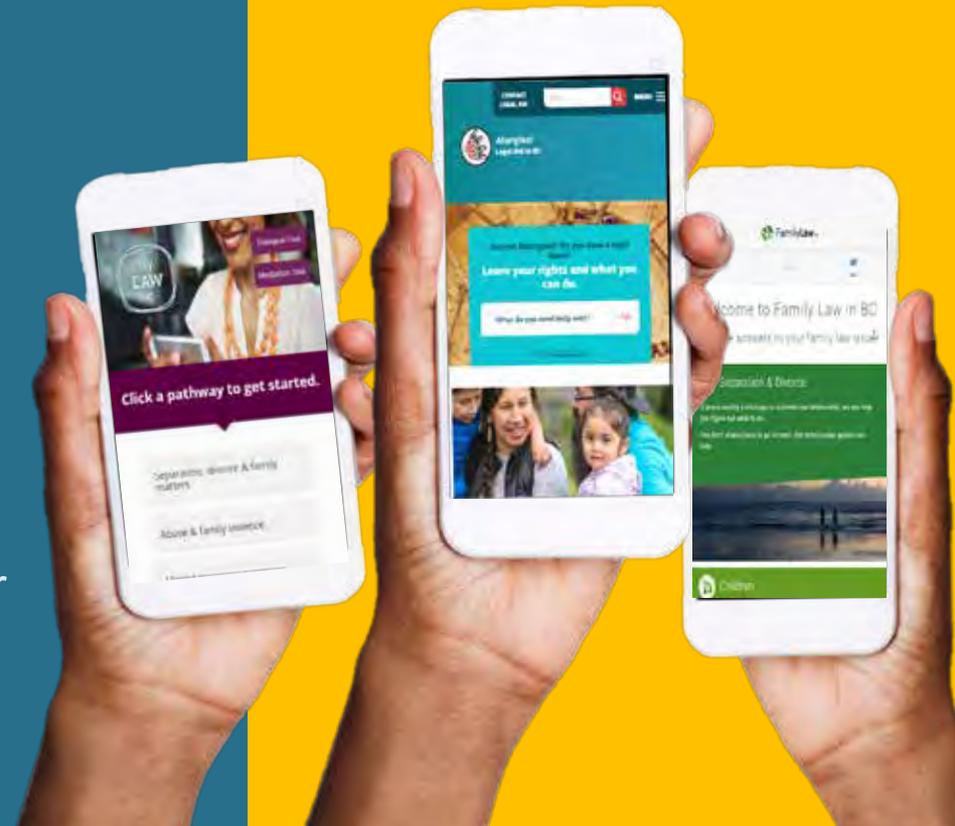
Legal  
Services  
Society

British Columbia  
www.legalaid.bc.ca

# FAMILY LAW RESOURCES

Provincial Advocates  
Conference  
October 8, 2019

Patricia Lim  
Publications Development Coordinator



# Outline

- Websites
  - Aboriginal Legal Aid in BC website
  - MyLawBC
  - Family Law Website
- Publications/Videos
  - Family, family violence, child protection, welfare
- Promo materials
- Practice Scenarios
- Staying up to date on LSS resources

# How can you help people with legal information?



Recognize the legal issue



Find ways to stay out of court and resolve problems early



Find options for help

Cover your tracks

Hide this site

CONTACT LEGAL AID

604-408-2172 (Greater Vancouver)  
1-866-577-2525 (elsewhere in BC)

Search



Aboriginal  
Legal Aid in BC

Legal Aid for Aboriginal people in BC

HOME

CHILD &  
FAMILY RIGHTS

COURTS & CRIMINAL  
CASES

LEGAL ISSUES  
ON RESERVE

LEGAL AID CAN  
HELP

RESOURCES

ISSUES &  
UPDATES

ABOUT US

Are you Aboriginal? Do you have a legal issue?

Learn your rights and what you can do.

What do you need help with?



[Is this site for you?](#)



Keeping your kids safe

WHAT YOU CAN DO >



Have you been accused of a crime?

WHAT YOU CAN DO >

[aboriginal.legalaid.bc.ca](http://aboriginal.legalaid.bc.ca)



My problem. My solution.

RESOLUTION TOOLS

Dialogue Tool

Mediation Tool

**Click a pathway to get started.**

Pathways help you find solutions to your legal problem.

Separation, divorce & family matters



Abuse & family violence



Missed mortgage payments



Wills & personal planning



Donate



Our publications



Our other sites



[WWW.MYLAWBC.COM](http://WWW.MYLAWBC.COM)







## 8 pathways 4 topic areas

- Divorce & separation
- Abuse & family violence
- Foreclosure
- Wills & personal planning





## DIALOGUE TOOL

- § Free negotiation platform
- § Write a fair & lasting separation agreement at their own pace

### 1-2-3

- Intake
- Negotiation
- Final agreement

A screenshot of the MYLAWBC Dialogue tool interface. The top navigation bar includes the MYLAWBC logo and the word "Dialogue". Below this is a progress bar with five circular icons representing stages: Communication, Children, Income, Home, and Property and Debt. The "Property and Debt" stage is highlighted, and a "View" button is visible next to it. The main content area is titled "Draft" and "Initial ideas". It contains a sidebar with a menu where "Facts &amp; files" is highlighted. The main text area provides instructions on how to communicate effectively during separation. A "Help" sidebar on the right lists various resources like "FAQ", "Dialogue Tool Guide", and "Coping with separation".

Legal  
Information  
Toolkit



# FAMILY RESOLUTION CENTRE

- Help parents make a **parenting plan**
- Allow parents to request **free help from a mediator**
- Generate a **parenting plan** for both parents to sign.
- Mediators can use a private or joint **chat room**.

Family  
Resolution  
Centre



[Mylawbc.com/mediation](https://mylawbc.com/mediation)



Get **free online mediation** to help you make a parenting plan and stay out of court.



Decision  
Making



Parenting/Contact  
Time



Statutory  
Holidays and  
Special Days



School  
Breaks



Vacation



Transportation

Family  
Resolution  
Centre



## Raise awareness & Foster engagement

Info session

Poster,  
promo  
sheet  
& digital  
ads

Blog,  
social  
media,  
eNews &  
podcast

Website  
links to  
MyLawBC

Workshop  
&  
conference

Product  
demo

**If you want more information**  
Put your name on the sign-up sheet  
Or email [publications@lss.bc.ca](mailto:publications@lss.bc.ca)



## Family Resolution Centre

*Is it for everyone?*

### Yes:

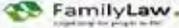
Parents who are comfortable using technology, have access to the internet.

### No:

- face a range of personal barriers to using an online service
- in high conflict situations and where there is a risk of abuse.

## Why use online mediation?

- Give parents an opportunity to respond thoughtfully instead of reacting.
- Work on their parenting plans at their own pace in the privacy and comfort of their homes.
- Parents can participate at whatever time of day or night, from anywhere that has Wi-Fi or Internet, and on a desktop, laptop, or in the near future, on mobile device.



[Home](#) | [About Us](#) | [Services & Support](#) | [Privacy & Accessibility](#) | [Site & Legal Notices](#)

## LSS Family Law

### Welcome to Family Law in BC

Find the answers to your family law issue

**1 Separation & Divorce**

If you're ending a marriage or common-law relationship, we can help you figure out what to do.

You don't always have to go to court. Use our step-by-step guides and help.

**2 Children**

Your child's wellbeing is our #1 priority.

We can help you figure out parenting time, child support, and a visitation schedule you agree with. We'll help you understand your child's rights and needs.

**3 Finances & Support**

It's important that both people have financially secure after you've separated. Find out how much support to look for, and sharing property and debts.

**4 Abuse & Family Violence**

Abuse is never okay. If your partner's actions make you feel unsafe or controlled, you can get help.

**5 BC Legal System**

Confused by the BC legal system? We can help you understand the different courts, how to apply for an order in a court order, and what forms you'll need.

**6 Advocates**

If you're an individual in a family with complex needs, we have resources to assist you. You can also check out our **What's New** section to see the latest publications.

**7 Immigration**

Family first.

**8 Aboriginal**

When dealing with family law issues, your culture and Aboriginal traditions at your Aboriginal community services and resources are available to help you understand your options.

**About Us**

**Legal Services Society**

The Legal Services Society (LSS) is a non-profit organization committed to helping British Columbia's vulnerable, low-income people. LSS provides free, confidential, self-help services and legal information and advice to BC residents.

Outsourcing and our programs

Services are available in person and over the phone at locations across the province. For more information:

**Find out more**

- [Get the LSS Family Law Book](#)
- [Find and try LSS self-help kits](#)

**Technical Acknowledgment**

Preparation of the Family Law in BC Book by the LSS Legal System Specialist Committee

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familylaw.lss.bc.ca

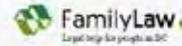


# FamilyLaw

Legal help for people in BC

## APPROACH TO INFORMATION

- Ease people into complex information
- Limit the decisions they need to make
- Use language and imagery they understand



### LSS Family Law

Welcome to Family Law in BC  
Find the answers to your family law issue

**1 1 Separation & Divorce**

If you're ending a marriage or common-law relationship, we can help you figure out what to do. You don't always have to go to court! Our step-by-step guides can help.

**1 2 Children**

Your child's wellbeing is what matters most. We can help you figure out parenting time and guidelines after separation or divorce. Hire a social worker contacted by child care (children's) care team (links).

**1 3 Finances & Support**

It's important that your family stays financially secure after you've separated. Find out more about spousal or child support, and dividing property and debt.

**1 4 Abuse & Family Violence**

Abuse is never okay. If your partner's actions make you feel unsafe or controlled, you can get help.

**1 5 BC Legal System**

Confused by the BC legal system? We can help you understand the different courts, how to apply for or respond in a court order, and what forms you'll need.

**1 6 Advocates**

If you're an advocate or someone who helps people with their family law issues, we have resources to assist you. You can also check out our What's New section to see the latest publications.

**1 7 Immigration**

Needs list

**1 8 Aboriginal**

When dealing with family law issues, your culture and heritage matters. If you're Aboriginal, there are services and resources available to help you understand your rights.



FamilyLaw

Legal help for people in BC

# INFORMATION PAGES

- Basic information about the law
- Building blocks of understanding

The screenshot shows the FamilyLaw website interface. At the top, there is a search bar and navigation links for 'Get more help', 'CALL', 'VISIT', and 'CHAT'. Below the navigation, there are menu items for 'Separation & Divorce', 'Children', 'Finances & Support', 'Abuse & Family Violence', and 'BC Legal System'. The main content area is titled 'Proving you're separated if you and your spouse still live together'. It includes a table of contents on the left with links to 'Going through separation', 'Separation', 'What should you take if you leave your spouse?', 'Proving you're separated if you and your spouse still live together', 'Which laws apply to your case?', 'Mediation', 'Getting a divorce', and 'Division of assets'. The main text explains that one can be considered separated even if still living in the same house, but must prove to a court that they have actually separated. It lists two ways to prove this: ending the relationship or still living together (e.g., saving money on bills). A green callout box with a location pin icon states: 'Keep a note of the date you agreed to separate. It can be important because: you can't apply for an uncontested divorce until you've been separated for one year, and usually you share property, assets and debts that you got during the relationship.' Below this, a section titled 'There's no one thing that proves you were separated' lists 12 behaviors that courts look at when deciding if a couple is integrated, such as filing taxes together, sleeping in the same bed, having sex, taking vacations together, attending social events together, visiting each other's family, celebrating special occasions together, preparing and eating meals together, sharing household chores, supporting each other in times of crisis, presenting themselves as a couple to family and friends, and planning a future together. It concludes that if most of these things are stopped, the court will be more likely to decide the couple is separated. At the bottom, there is a link to 'See Living Together or Living Apart: Common-law relationships, marriage, separation, and divorce' for more information on sharing a house when separated.



FamilyLaw

Legal help for people in BC

# GUIDES

- Step-by-step guides to complex legal processes
- Attention paid to flow of steps

The screenshot shows the FamilyLaw website interface. At the top, there is a navigation bar with the FamilyLaw logo and the tagline 'Legal help for people in BC'. Below the navigation bar, there are several tabs: 'Separated & Divorced', 'Divorce', 'Financial & Support', 'Alimony & Child/Spouse', and 'BC's Legal System'. The main content area is titled 'Joint application for an uncontested divorce'. It features a progress bar with steps 1 through 6, where step 1 is highlighted. The first step is 'Step 1: Gather your documents'. Under this step, there is a section 'You'll need' with a list of requirements: 'The money to cover your marriage certificate, if you need it', 'A translation if you speak French or English, if required', 'A copy of your separation agreement or court order (if you have it)', and 'Any change of name certificate, if required'. Below this is a section 'Your marriage certificate' with instructions on how to get a copy. There are also 'Quick Links' on the right side, including a link to 'Get a copy of the Court Order' and a 'Webinars' section. The bottom of the page has more sections like 'If you can't get a copy of your marriage certificate', 'If your marriage certificate isn't in English', 'Your separation agreement or court order', and 'Your change of name certificate, if required'.



# FamilyLaw

Legal help for people in BC

## STORIES

- Simple stories to help get users started
- Helps with low-literacy clients
- Reflects users' situation and establishes connection





**FamilyLaw** ●  
Legal help for people in BC

# NEW AND UPCOMING FEATURES



## NEW

Live chat and chat bots 

- Law students, legal information outreach workers, and robots answer simple questions

Voice-activated search 

- Talk to the website and get answers

## UPCOMING

1st Appearance in Family Provincial Court Interactive Tool

- Oct 9<sup>th</sup> LSS lunch session



**FREE**

**PUBLICATIONS** |

# LSS Publication Readability

## How much legal understanding is needed?

### Level 1 — None needed.

No legal understanding required. Outline or “first step” information, written in clear language for those with no previous knowledge or experience with the law.

### Level 2 — Some helpful.

Some understanding helpful but not essential. Offers all basic information on a topic, meant for those who are reasonably comfortable reading and who may have a general sense of some legal concepts.

### Level 3 — Some needed.

Basic familiarity assumed. Detailed material, written primarily as a reference for the advocate/intermediary audience, although accessible to members of the public with adequate literacy skills.

[Legaid.bc.ca/read](https://legaid.bc.ca/read)

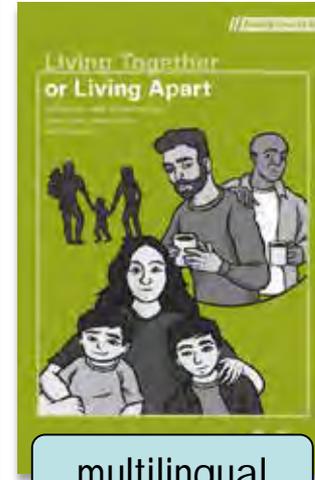
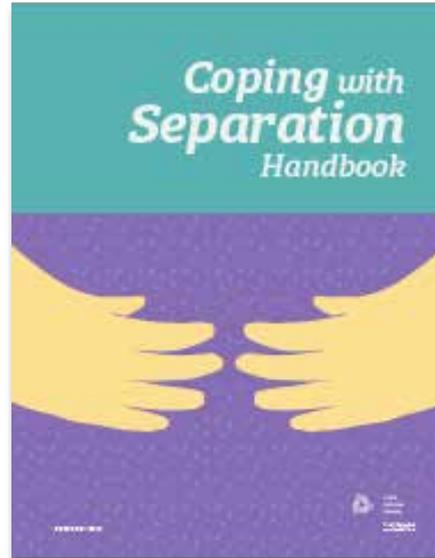
# Family Law

Level 2

Level 1



multilingual



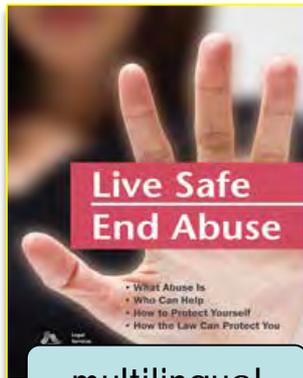
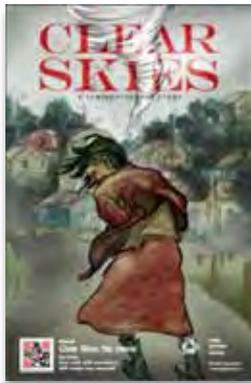
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multilingual

# Abuse & Family Violence

Level 1



Level 2



multilingual



multilingual

multilingual

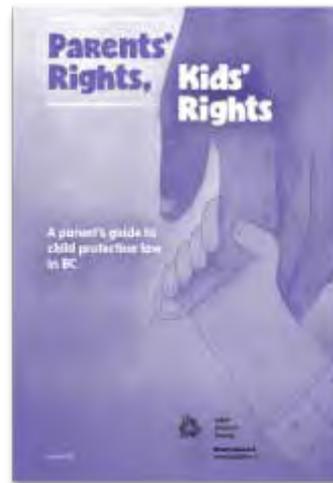
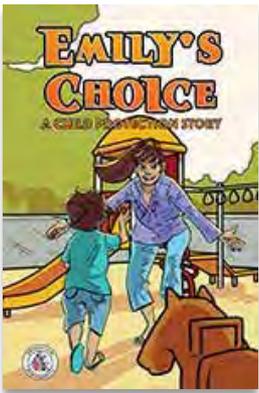
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# Child Protection

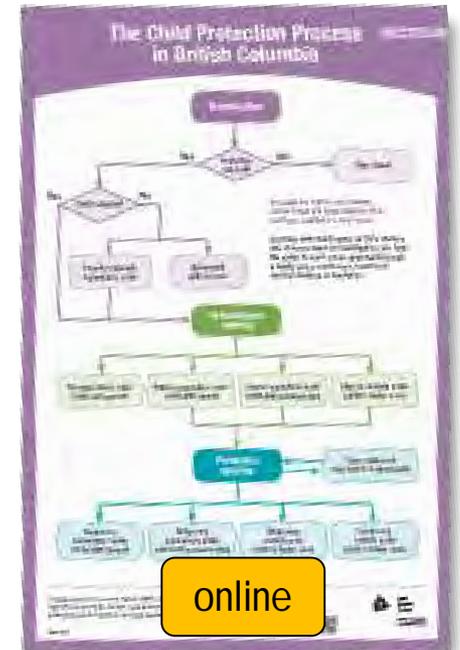
Level 1

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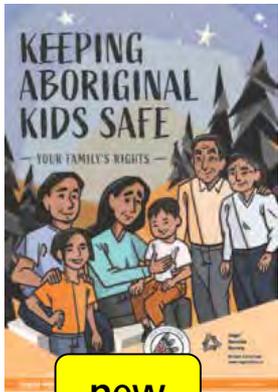
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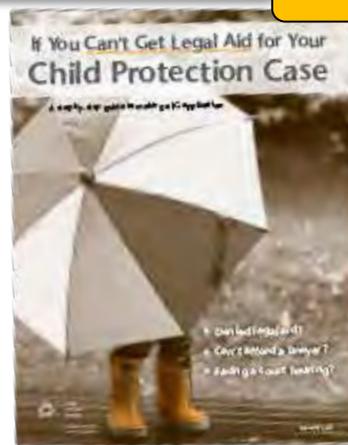
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online

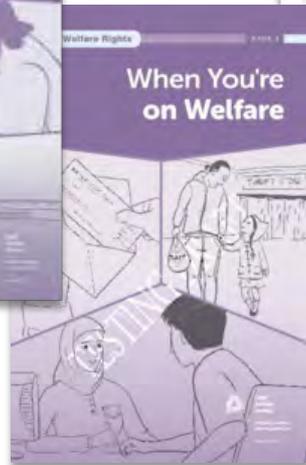
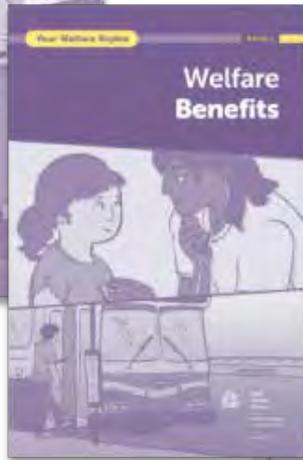
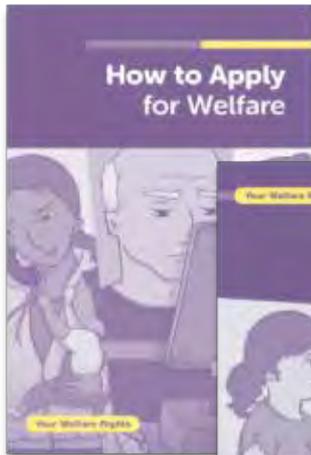


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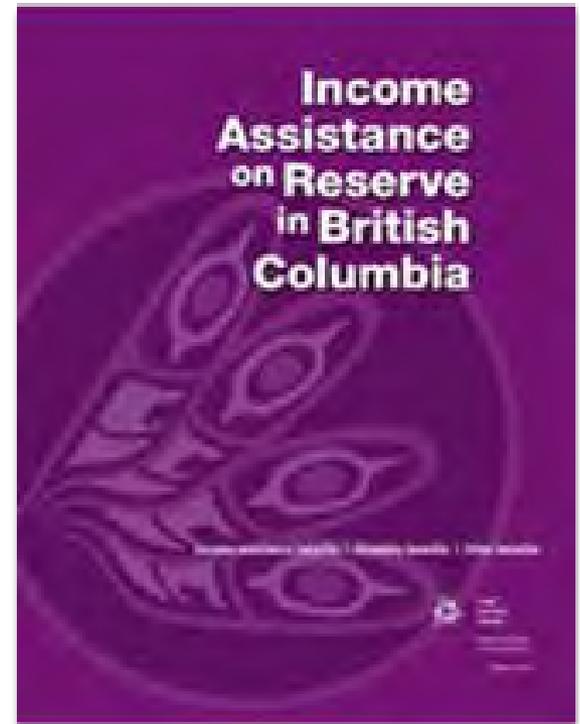


# Welfare & Income Assistance

## Level 2



online

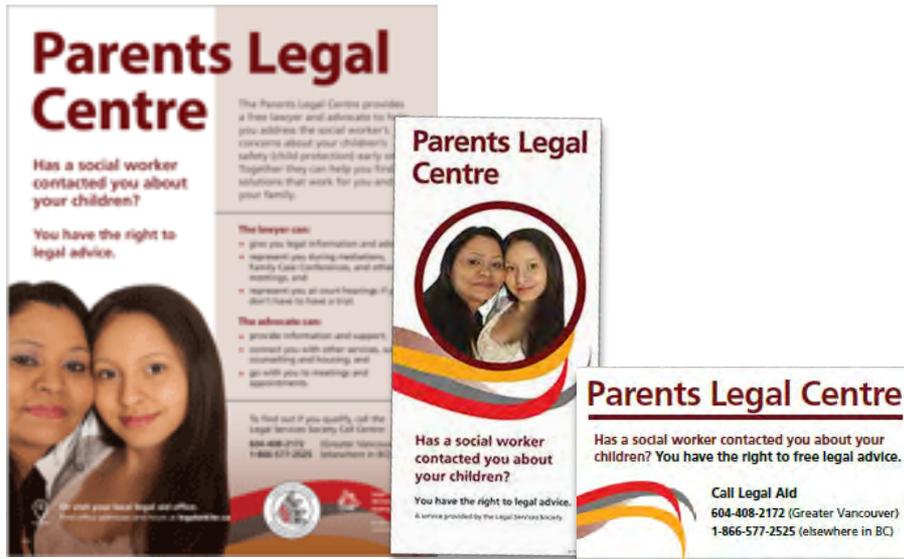


# VIDEO RESOURCES



Available at [aboriginal.legalaid.bc.ca](http://aboriginal.legalaid.bc.ca)  
and [youtube.com/legalaidbc](https://youtube.com/legalaidbc)

# LETTING PEOPLE KNOW ABOUT PARENTS LEGAL CENTRE



Animated video  
for the Parents Legal Centre



Available at  
[aboriginal.legalaid.bc.ca](http://aboriginal.legalaid.bc.ca)  
[youtube.com/legalaidbc](https://youtube.com/legalaidbc)

## *Locations open 2018/2019*

- Campbell River
- Smithers/Hazelton
- Williams Lake
- Prince George
- Kamloops
- Duncan
- Surrey
- Vancouver
- Victoria

# LETTING PEOPLE KNOW ABOUT LEGAL HELP AND LEGAL AID



**Family LawLINE**  
a free telephone service in BC

Going through a family law issue?  
Need free legal advice?

- Call to see your lawyer over internet (video call)
- Learn about your options both in and out of court
- Have a lawyer reach you through email
- Get help with court documents
- Connect with other services and resources

Who can qualify to use Family LawLINE?  
[legalaid.bc.ca/Qualify](http://legalaid.bc.ca/Qualify)  
**604-408-2172**  
**1-866-577-2525**  
Legal Services Society Call Centre

**Family LawLINE**  
Get help from a lawyer about parenting, separation, divorce, or other family law matters

**604-408-2172**  
**1-866-577-2525**  
Legal Services Society Call Centre

[legalaid.bc.ca](http://legalaid.bc.ca)



**Family Duty Counsel**

If you have a family law problem, you may qualify for free help.

Legal Services Society  
British Columbia  
[www.lssbc.ca](http://www.lssbc.ca)



**Unbundled legal services**

Get legal services for just a portion of your family law problem.

**Unbundled Legal Services**

Legal services to fit your needs and budget

[unbundlinglaw.ca](http://unbundlinglaw.ca)

# LETTING PEOPLE KNOW ABOUT LSS WEBSITES & ONLINE TOOLS



Family Law website



Aboriginal Legal Aid website



MyLawBC



MyLawBC Family Resolution Centre



[www.clicklaw.bc.ca](http://www.clicklaw.bc.ca)



[www.povnet.org](http://www.povnet.org)



[www.peopleslawschool.ca](http://www.peopleslawschool.ca)

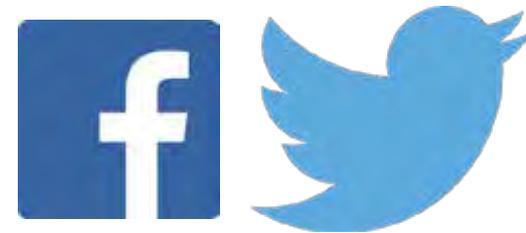
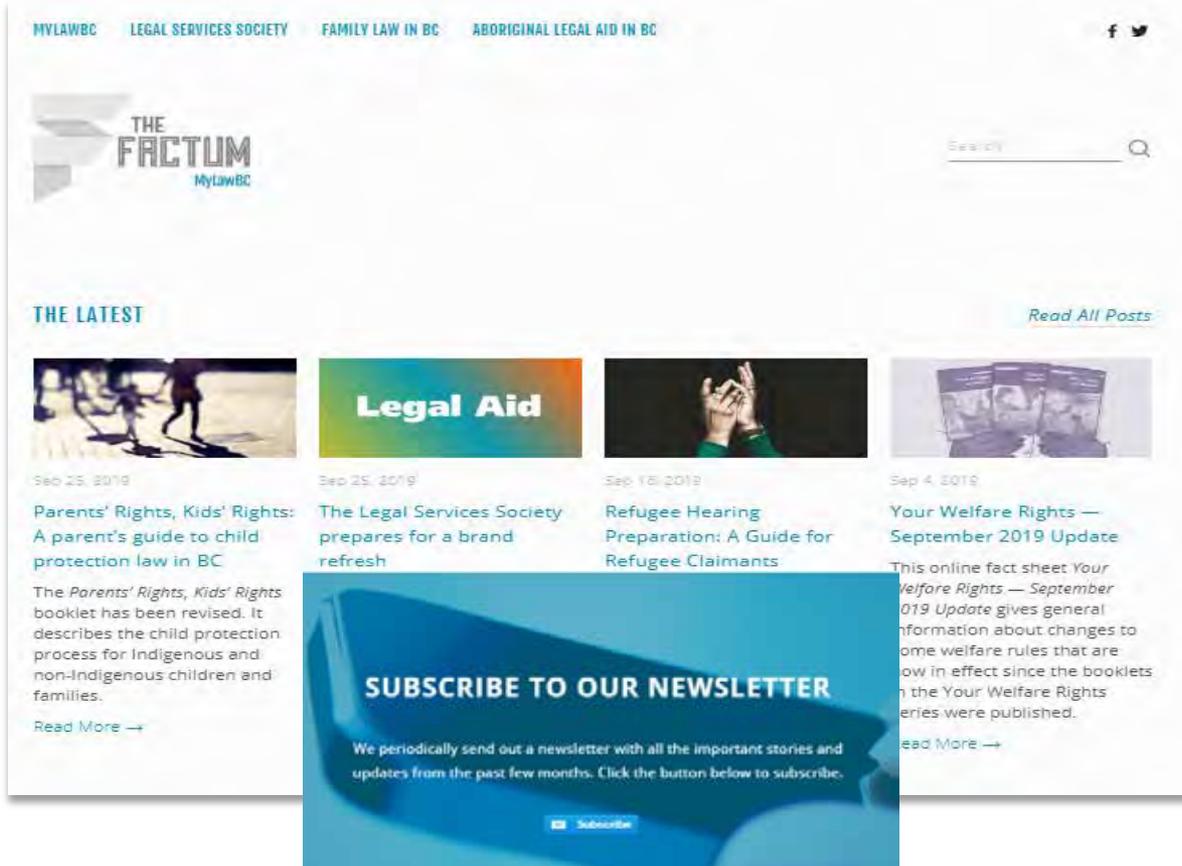
**DIAL·A·LAW**

A service of People's Law School

[dialalaw.peopleslawschool.ca](http://dialalaw.peopleslawschool.ca)

OTHER LEGAL INFORMATION RESOURCES

# Stay in touch.



@legalaidBC



[factum.mylawbc.com](http://factum.mylawbc.com)

# PRACTICE SCENARIOS



# Thank you



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Patricia.Lim@Iss.bc

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604.601.6054



Legal  
Services  
Society

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)

# Issues affecting clients leaving relationships with intimate partner violence

Taruna Agrawal – Family Advocate Support lawyer

&

Andrea Bryson – Case Manager



WOMEN'S LEGAL CENTRE

# DISCLAIMER

Nothing we say in this presentation should be construed as legal advice. This is simply for information purposes only. Please consult with a lawyer if you need legal advice.

NOT LEGAL ADVICE



# Agenda

- Contextualizing systemic legal issues
- An ethical obligation to connect with others
- Immigration issues
- Tenancy & housing issues
- Employment & income issues
- Policing



# Systemic issues

Legal systems are all around us and our clients may or may not choose to engage with them, sometimes clients don't get to choose if a system engages with them, but they always have a choice in how they want to respond.

Our role is to give them all the information they need and to support them with the decision.



# Systemic issues

Today I came to do this training...

The legal system gives us a hammer, but not everything is a nail.

Often our clients are trying to put together complex beams, so they may need a hammer and nails, but they might also need a screwdriver, possibly some rope and some good ol' fashioned duct tape.

Today we are here to fill our toolboxes with hammers, but also screwdrivers, some rope and I'll let you all borrow some of my duct tape.



# Here is some rope...

Today I came to do this training...

We have an ethical obligation to have as much rope in our hands as possible so that we can help our clients use it to make their own nets. Before you are done this conference I want you to connect two people that you think are awesome and meet two new people.



# The biggest barrier for women leaving abuse

- Often women don't associate themselves as victims of abuse
  - They are also often very worried about being seen as crazy or manipulative, so unless they have evidence they may minimize or mitigate the abuse
  - They may not realize that they have been keeping themselves safe – often after an incident happens women will ensure that another one doesn't happen
  - They might think that this happens to other women that aren't like them
- Speak so women know that you believe them, highlight that you trust them to tell the truth



# Immigration Issues



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# Immigration- i. Discourse

- The vocabulary in FLA and Immigration and Refugee Protection Act (IRPA) is different
- i. Common Law vs. Spouse
- IRPR uses the term “Common-law partner”)
  - Definition- “common-law partner means, in relation to a person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year.”



# Spouse under FLA

FLA (BC)- does not use the term “common law” It defines “Spouse” under s. 3(1) FLA.

- Exhaustive definition; snippet follows:
- 3(1) A person is a spouse for the purposes of this Act if the person
  - (a) is married to another person, or
  - (b) has lived with another person in a marriage-like relationship and (i) has done so for a continuous period of at least 2 years, or (ii) except in Part 5 [Property Division] and Part 6 [Pension Division], has a child with the other person.

This means that just because you qualify as a common law spouse for the purpose of immigration, doesnt



# Notice the time difference?

- qualifying as a common-law spouse under Canadian immigration law does not necessarily mean that one qualifies as an unmarried spouse for the purposes of *Family Law Act*.
- If one has lived together for more than 1 year but less than 2 years, is not married, and their relationship ends, they may be a *common-law spouse* under federal immigration law, but not a spouse of any kind under the provincial act (BC).



## ii. Best Interests of the Child

- Section 37(1) of the FLA states that best interests of the child is the only consideration when making decisions about guardianship, parenting arrangements, and contact with the child.
- Section 3(1)(d) of the IRPA states that one of the objectives of the act is "to see that families are reunited in Canada."
- *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 says that "the decision-maker should consider children's best interests as an important factor, give them substantial weight, and be alert, alive and sensitive to them."



# Sponsor's Obligations

- Both family and immigration law outline a stepparent's obligation to provide for the sponsored dependent in some way.
- Immigration rules state that a sponsor must commit to providing for their spouse's (or common-law partner's) needs and the needs of any dependent children.
  - This commitment is actually made to the government, and is called an *undertaking*.
  - The undertaking continues even if the relationship between a sponsor and their spouse or other dependent breaks down.



# Immigration and Sponsor's Obligations cont.

- If a sponsor and their spouse separate, and the sponsor will not or cannot support the spouse voluntarily, the spouse may apply for income assistance or other government benefits to support themselves and any dependent children.
- If the government (whether provincial or federal) supports the spouse by paying benefits (such as income assistance), the government may then turn to the sponsor and require them to pay back the cost of those benefits.
- Each undertaking lasts for a period of time called a *length of undertaking*, during which time the sponsor is liable to support the spouse and repay the government for any support it provides the spouse.
- Undertaking for minor children- 10 years or until age 25 (whichever comes first)



# FLA and step-parents obligations

- S. 174(4) FLA states that “A child’s step parent does not have a duty to provide support or the child unless
- (a) the stepparent contributed to the support of the child for at least one year, and
- (b) proceeding for an order under this Part, against the stepparent, is started within one year after the date the stepparent last contributed to the support of the child.



# Permanent Resident Spouses

- In October 2012, the government of Canada introduced a rule that most sponsored spouses were under *conditional permanent residency status* for the first two years.
- condition was removed on April 28, 2017, when the government introduced a rule that sponsored spouses or common-law partners of Canadian citizens and permanent residents no longer need to live with their sponsor in order to keep their permanent resident status.



This means that if your client's partner is abusive, she no longer needs to worry about the threat of deportation or potential loss of status.

Your client's residency status is no longer contingent on the length of the relationship. That being said, the government of Canada will still continue to investigate complaints about marriage fraud (where someone marries a Canadian citizen or permanent resident for the sole purpose of gaining entry into Canada). This means that if one leaves their spouse, there is a possibility that the spouse may file a complaint of marriage fraud with Immigration Refugees and Citizenship Canada (IRCC).

IRCC will then send a letter with a 30 day deadline to respond to their concerns and tell the client's side of the story. If that happens, you client should seek legal advice. They could also write to the IRCC officer and ask for an extension on the response date. This will buy some time to find a lawyer.

If you do not receive a positive response from the officer, then you must respond by the date listed on the letter to avoid a removal order.



# Income Assistance & Immigration Status

- One does not lose your permanent resident status if one has to apply for income assistance.
- If one does not have status and applies for income assistance, s. 7.1 of the Regulations applies.
- **Exemption from citizenship requirements**
- **7.1 (1)** Despite section 7 (1), a family unit that does not satisfy the requirement under that section is eligible for income assistance if the minister is satisfied that all of the following apply:
  - (a) the applicant is a sole applicant or, in the case of a recipient, the recipient is a sole recipient;
  - (b) the applicant or recipient has one or more **dependent children who are Canadian citizens**;
  - (c) the applicant or recipient has **separated** from an **abusive spouse**;
  - (d) the applicant or recipient has applied for status as a permanent resident under the *Immigration and Refugee Protection Act* (Canada);



# s. 7.1 Employment and Assistance Regulations cont.

- (e) the applicant or recipient **cannot readily leave British Columbia** with the dependent children because
  - (i) a court order, agreement or other arrangement with respect to one or more of the dependent children provides custody, guardianship or access rights to another person who resides in British Columbia and leaving British Columbia with the dependent children would likely contravene the provisions of the court order, agreement or other arrangement,
  - (ii) another person who resides in British Columbia is claiming custody, guardianship or access rights with respect to one or more of the dependent children and the person's claims have not yet been resolved, or
  - (iii) the applicant or recipient, or a dependent child of the applicant or recipient, is being treated for a medical condition and leaving British Columbia would result in imminent danger to the physical health of the applicant, recipient or dependent child.



# Some changes in 2019

- i. starting June 4, 2019, migrant workers who have employer specific work permit and are in an abusive job situation in Canada will be able to apply for an open work permit.
  - Open work permit- takes months to be issued and may have to prove abuse
- This will allow migrant workers to leave the employer immediately, maintain their status and find another job.
  - Yes, leave immediately. But no income and permit still employer specific until the TFW receives another rpermit



## ii. Temporary Resident Permit

- New comers experiencing family violence can now apply for a fee exempt Temporary Resident Permit that will give them legal immigration status in Canada and includes a work permit and health care coverage
- So, if a client is leaving an abusive relationship and immigration status is an issue, this can be done.
- Issues- processing time? Sure, can apply, but potential delay in processing



## iii. Humanitarian and Compassionate Grounds

- Does not automatically qualify for or grant a WP
- Now process expedited for those in urgent family violence situations



# Housing & Tenancy

# Tenancy & Housing

Marc moved in with Maria and her 13-year-old son Jose in June. Maria thought it was important for Jose to have a strong man around the house and Marc was working and seemed like a decent guy. It seemed though once he moved in that he was angry all the time. Maria and Jose have been walking on eggshells. Maria said “Marc is being cheap – he promised to help, but I buy all the food and pay all the bills”

You ask Maria what she wants to have happen and she says “I would like for me and Jose to have our home back, but I really just need Marc out of our lives.”

- What would you suggest to Maria?



# Points to consider

- What does Maria identify as needing and what words does she use to describe her experience?
- How safe is Maria and Jose if there is conflict over the housing? Is this a safe place if Marc gets angry? Is there a resource to help with safety planning and possible places for her to go that are safe?
- How pushy is Marc to stay? Does Maria identify that getting him out will be a struggle, or will he take the hint with some changed locks?
- What legal ties does Maria have to Marc – what if they were jointly on the lease? What if Jose was a shared child? What if Jose had been paying rent and not just freeloading?



# Maria's options

- Practical solutions:
  - While Maria is assessing next steps she may want to stay in a transition house, women do not need to be homeless to stay in transition houses.
  - Perhaps she feels that Marc won't resist if she just changes the locks or gives him a letter.
  - Maria may not be worried about him going to small claims/CRT if she evicts him without notice.
  - Maria may be able to give notice to her landlord to move, she may also be able to use S.45.1 of the RTA to end the tenancy early if the landlord is not flexible.
- Resources: in Maria's situation, Marc may be very resistant to moving out, Maria's landlord may not be supportive and she may need to be connected with a poverty law advocate to try to manoeuvre through if there are complex issues.



# A note on transition houses & other safe spaces

- Shelter: short term stay, does not provide specialized services, but can provide connections to other resources or support.
- Safe house: a space in an existing home or service that is a safe place for women leaving abuse to go may have specialized services connected to the program.
- First stage transition house: usually a house that has a 30 day stay rent free while women are figuring out their next steps. Staff is available 24/7 to assist with issues and to do intake.
- Second stage transition house: usually for women with complex situations or significant post separation abuse. Usually up to a year, but can be up to 2 years and usually has a housing charge. Staff may only be on site during business hours or certain days.
- Third stage is similar to second stage, but may have a unit in the community or not staffed as regularly as first or second stage. Staff time may be done more infrequently or focus on goal-setting or appointment based meetings.



# Income Security

# Employment & Income

Sahra is planning to leave her partner of 18 months Gabe before the end of the month. She's found a new apartment, but she's come to you worried because she's not sure how Gabe is going to take the news.

She became unexpectedly pregnant 6 months ago and Gabe assaulted her, which caused a miscarriage. Sahra talked about an amicable break up 3 months ago and he made a scene at the grocery store she works at.

Sahra is not sleeping well, not hungry and feels very stressed all the time.

- What would you suggest to Sahra?



# Points to consider

- What does Sahra identify as needing and what words does she use to describe her experience?
- How safe is Sahra if Gabe becomes upset? Is there a resource to help with safety planning and possible places for her to go that are safe?
- How does Sahra feel through this, this is a stressful time which often affects overall health – what resources does she have access to?
- What does escalation look like? Gabe went to her work last time, what does she think will happen knowing that the abuse is often worse once she leaves?
- What can I rule out for income supports?



# Sahra's options

- Practical solutions:
  - While Sahra is assessing Gabe's response, she could use the 10 days of unpaid leave (especially if she is seeking a PO or CO to keep him away from her).
  - She may also talk with a doctor about a medical leave from work from EI (up to 12 weeks).
  - Depending on her income, she may be eligible for IA (they should be interviewed w/I 1 day and there are many exemptions including assets)
- Resources: many women feel reluctant to use services like IA, EI or even the unpaid leave, as well as resources like food banks and other services – helping her to normalize it can be very helpful



# Policing



WOMEN'S LEGAL CENTRE

# Policing

Julia comes to you, she has bruises that look like hand marks on her arms and she discloses that she wants to leave, but is afraid of her husband.

Julia has called the police before, but it's never really solved anything. Once he was ordered to take Respectful Relationships, but he was so angry when he was forced to go that he was violent with her every time he returned from that class.

Julia is too scared to leave because of how violent he can become, but can't stay.

- What would you recommend to Julia



# Points to consider

- Julia has had a number of experiences – is this experience likely to be the same or different?
- What are strategies to keep Julia safe – policing seems to be the first one in such scary situations, but are there practical ways to keep Julia safe?
- What is Julia’s timeline – what does it look like to build scaffolding around her, what might that scaffolding look like?
- What relationships do you or other workers in her life have with police – are there ways to have “hypothetical situations” or “off the clock” conversations?
- What links does Julia have to her partner – are there children, are there leases, how does she support herself?



# Julia's options

- Practical solutions:
  - Julia may be able to use some of the income and tenancy resources
  - Julia may want to proceed if there is support, ask her what it may be like to be witnessed in going through this process
  - Julia may want to avoid bringing in the police, how can you structure safety in making a 911 call
  - Accessing transition houses and making a plan to leave can be cumbersome if she wants a long term solution – how can you help her to connect with the house and make a plan
- Resources: I think it's imperative for women to have access to a wide range of supports including 24 hour information & support lines. WAVAW, BWSS, BC211 and get to know your local anti-violence orgs.



Any questions



NOT LEGAL ADVICE

# THANK YOU!

Taruna Agrawal – Family Advocate Support lawyer  
[tagrawal@womenslegalcentre.ca](mailto:tagrawal@womenslegalcentre.ca) / [www.bit.ly/risefasl](http://www.bit.ly/risefasl)

&

Andrea Bryson – Case Manager  
[intake@womenslegalcentre.ca](mailto:intake@womenslegalcentre.ca) / [www.bit.ly/riseintake](http://www.bit.ly/riseintake)





Table of Contents	
<b>1. Introduction</b>	<ul style="list-style-type: none"> <li>Who are the Grandparents Raising Grandchildren Support Line Advocates and what does Parent Support Services do?</li> <li>What is kinship care?</li> </ul>
<b>2. CFCSA section 8</b>	<ul style="list-style-type: none"> <li>The Extended Family Program</li> <li>Customary care</li> <li>Benefits for kinship care families</li> </ul>
<b>3. Roadblocks to advocacy</b>	<ul style="list-style-type: none"> <li>"Grandpa L" Case Study</li> <li>"Grandpa K" Case Study</li> <li>CFCSA section 3</li> </ul>
<b>4. Skillshare Project</b>	
<b>5. Research Project</b>	
<b>6. Conclusion</b>	<ul style="list-style-type: none"> <li>Call the Support Line!</li> </ul>



## Christina Campbell, MSW Advocate-Social Worker

Christina Campbell is a UBC graduate with a Masters in Social Work who has practiced community development internationally and has, as a long serving support line advocate, become highly knowledgeable about caregiver experiences navigating kinship care law and policy.



## Caity Goerke, JD Advocate-Lawyer

Caity is a practicing family and child protection lawyer and previous student clinician at the Indigenous Community Legal Clinic, Peter A. Allard School of Law where she served clients with family and Indigenous legal issues and received training in child protection law.

### About us:

As advocates, we work for **Parent Support Services Society of BC (PSS)**. The society's mission is to protect the safety and well-being of children and promote the health of families by providing support, education, advocacy, research and resources to those in a parenting role.

In addition to the Support Line, PSS provides **Support Circles** to parents and kinship caregivers.



Parent Support Services  
Society of BC

## Who is a Kinship Caregiver?



A kinship caregiver is someone with a family or a cultural connection to or a strong relationship with a child in need, who cares for that child full-time, on either a temporary or a permanent basis.

# Grandparents Raising Grandchildren Support Line

The GRG Support line is open:  
**Monday, Tuesday, Thursday and Friday from 10 AM to 2 PM.**

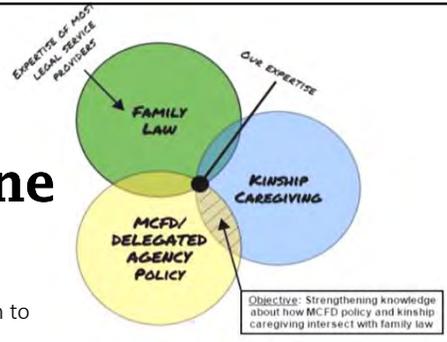
The GRG Support Line provides support, advocacy and resource information to **kinship caregivers, service providers and allies.**

The Support Line expertise lies in the **intersection** of child protection policy, family law, and kinship care.

As advocates we practice **cross-disciplinary collaboration**. Drawing on different professional backgrounds (social work and law), we help kinship caregivers across the province to overcome information barriers and better navigate government systems.

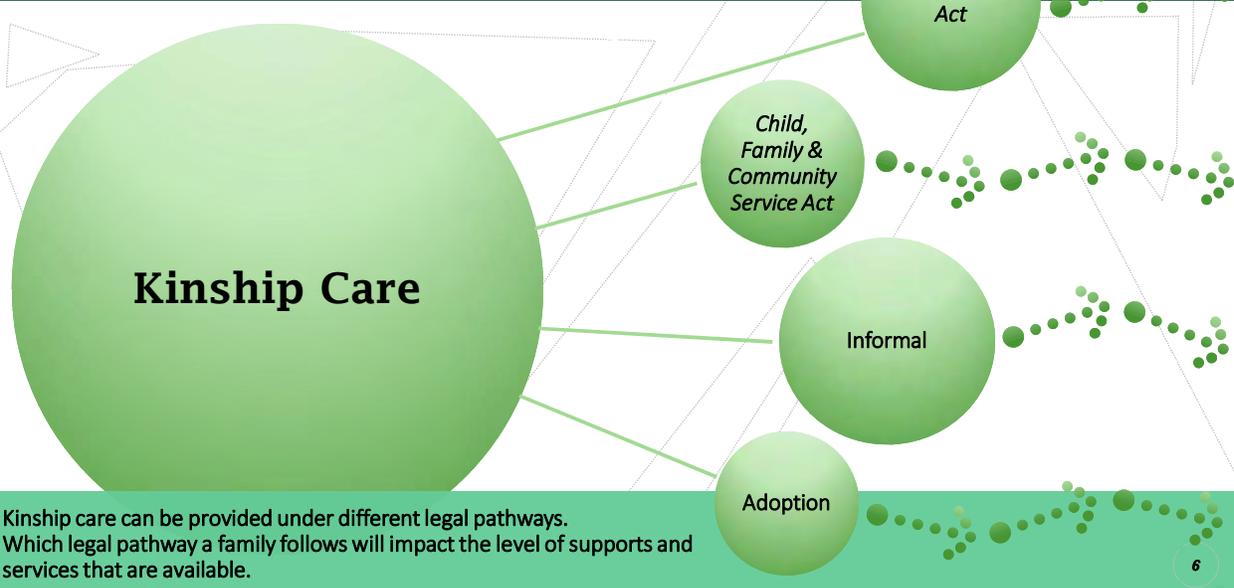
We apply a shared approach and knowledge base to calls and we operate the GRG Support Line through a job-share model.

We do **not** give out legal advice on the line.



**604-558-4740**  
**1-855-474-9777**  
[grgline@parentsupportbc.ca](mailto:grgline@parentsupportbc.ca)

## How do you become a Kinship Caregiver?



Kinship care can be provided under different legal pathways. Which legal pathway a family follows will impact the level of supports and services that are available.

## Agreements with child's kin and others

- 8 (1) A director may make a written agreement with a person who
- (a) has established a relationship with a child or has a cultural or traditional responsibility toward a child, and
  - (b) is given care of the child by the child's parent.
- (2) The agreement may provide for the director to contribute to the child's support while the child is in the care of the person referred to in subsection (1).
- (3) If a director makes an agreement under subsection (1), the following may be included as a party to the agreement:
- (a) the child's parent;
  - (b) in the case of the child being an Indigenous child,
    - (i) if the child is a First Nation child, the First Nation,
    - (ii) if the child is a Nisga'a child, the Nisga'a Nation or the child's Nisga'a Village,
    - (iii) if the child is a Treaty First Nation child, the Treaty First Nation, or
    - (iv) if the child is not a First Nation child, a Nisga'a child nor a Treaty First Nation child, the legal entity representing the child's Indigenous community.
- (4) If, under subsection (3), a party is included in an agreement,
- (a) the agreement must include
    - (i) a description of the party's role in the agreement, and
    - (ii) in the case of a party referred to in subsection (3) (b), conditions on the use, disclosure and security of information provided under the agreement to the party, and
  - (b) a withdrawal from the agreement by the party does not have the effect of terminating the agreement.

## The Extended Family Program (EFP)



Families can access the Extended Family Program when circumstances **temporarily** prevent a parent from caring for their child and a kinship caregiver is available and willing to provide care.



Under an EFP agreement, **legal guardianship** remains with the parents and the ultimate goal of the program is family **reunification**.

For the purposes of accessing an EFP agreement, MCFD policy defines "caregiver" as including, "extended family, or other individual(s) who have a relationship with or a cultural or traditional responsibility to the child/youth."

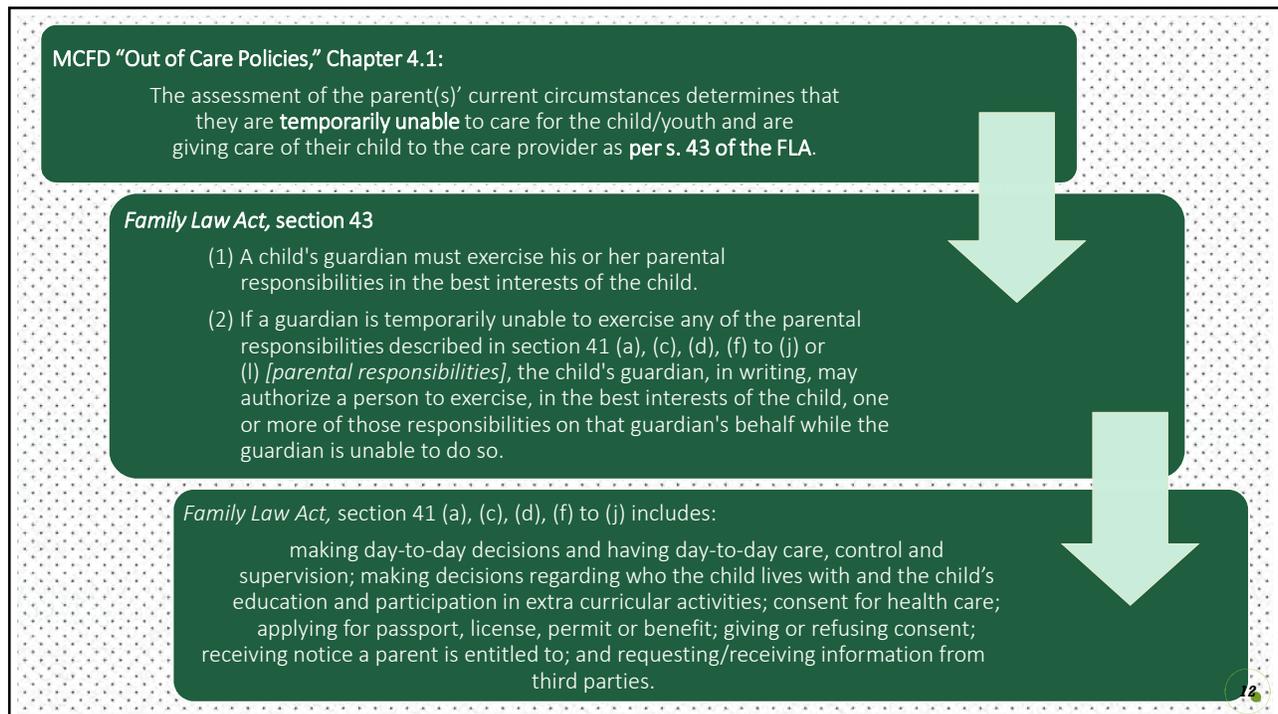
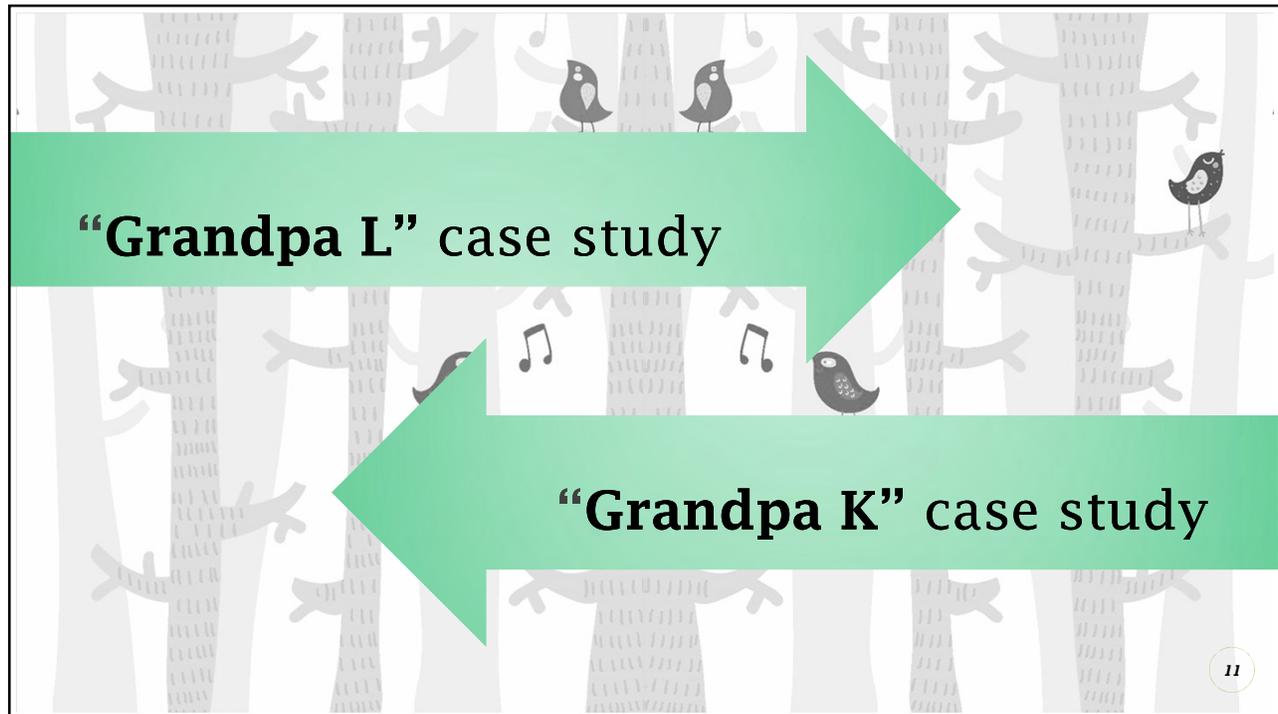
## MCFD “Out of Care Policies,” Chapter 4.1



If the parent(s) are Indigenous, explain to them that an EFP Agreement may be used to financially support a **customary care arrangement** when they have given care of their child to a care provider in accordance with their customary practices.

9

Programs	Maintenance Payment	Basic Medical (MSP)	Extended Medical	Dental & Optical	Child Care Subsidy & Surcharge	Canada Child Benefit & Child Disability Benefit	Tuition Waiver
<b>Extended Family Program Agreement</b> Age 0 to 11 Age 12 to 19	<b>YES</b> (Not income tested) \$994.81 \$1099.09	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>
<b>Interim &amp; Temporary Custody to Others</b> Age 0 to 11 Age 12 to 19	<b>YES</b> (Not income tested) \$994.81 \$1099.09	<b>YES</b>	<b>YES</b>	*	<b>YES</b>	Not eligible	<b>YES</b>
<b>s. 54.01 &amp; 54.1 Agreements</b> Age 0 to 11 Age 12 to 19	<b>YES</b> (Not income tested) \$994.81 \$1099.09	Not eligible	Not eligible	Not eligible	<b>YES</b>	Not eligible	<b>YES</b>
<b>Family Law Act</b>	\$0	Not eligible	Not eligible	Not eligible	Not eligible	<b>YES</b>	Not eligible
<b>Restricted Foster Care Agreement</b> Age 0 to 11 Age 12 to 19	<b>YES</b> (Not income tested) \$994.81 \$1099.09	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b> Subsidy only	Not eligible	<b>YES</b>
<b>Post Adoption Assistance</b>	Income & Asset tested	Not eligible	Not eligible	Not eligible	Not eligible	<b>YES</b>	<b>YES</b>



## Service delivery principles

3 The following principles apply to the provision of services under this Act:

- (a) families and children should be informed of the services available to them and encouraged to participate in decisions that affect them;
- (b) **Indigenous** people should be involved in the planning and delivery of services to **Indigenous** families and their children;
- (c) services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services;

(c.1) **the impact of residential schools on Indigenous children, families and communities should be considered in the planning and delivery of services to Indigenous children and families;**

- (d) services should be integrated, wherever possible and appropriate, with services provided by government ministries, community agencies and Community Living British Columbia established under the *Community Living Authority Act*;
- (e) the community should be involved, wherever possible and appropriate, in the planning and delivery of services, including preventive and support services to families and children.



13

## Skillshare Project



14

# Kinship Care Research Project



15

**Thank you for coming!**

Questions? Comments?

Call us at the GRG Support Line:  
Monday, Tuesday, Thursday and Friday  
from 10 AM to 2 PM.

**604-558-4740**

**1-855-474-9777**

[grgline@parentsupportbc.ca](mailto:grgline@parentsupportbc.ca)

## Extended Family Program

When circumstances prevent a child from living with their parents, the preferred option is for the child to be with someone they know. This usually means an immediate family member – a grandparent, aunt or uncle, or an older sibling – it can also include someone with an established relationship or cultural connection to the child and their family.

### How to determine if you can access the program

Children are better off when they are cared for by their families – and the Extended Family Program offers services and financial supports to help improve outcomes for children and youth. The main criteria for families to access the Extended Family Program include:

- Circumstances temporarily prevent the parent(s) from caring for their child in the home.
- Other services and supports have been tried to help keep the parent(s) and child together. This could include programs to meet the needs of the child or supports for parents such as counselling or parenting programs.
- The care provider, who cannot be the child's legal guardian, is a relative or someone with a significant relationship or cultural connection to the child.
- A parent must request services from the ministry or a Delegated Aboriginal Agency - only the legal guardian of the child can initiate an application.
- Parents must agree to the choice of care provider and the plan for the child and, where possible, contribute financially to their child's care.

### What else you need to know about the program

- The goal is always to reunite the child with their parents wherever possible.
- The program puts the child at the center of all decisions being made and their views will be considered in decisions that affect them.
- Together, the social worker and family develop a plan for the child that addresses the child's needs and assists the parent(s) and the care provider.
- The family remains in contact with the social worker – meeting at least every six months and evaluating the plan regularly.
- When reunification cannot be achieved, permanency and legal options that provide the child with long-term stability can be explored as part of the long-term planning.

If the child's needs are best met by a plan to live outside the parental home, and the parents agree, financial and other supports may be provided to the care provider through the Extended Family Program. Care providers may receive monthly benefit payments of \$554.27 per child under 12 years of age and \$625.00 per child 12 years of age and older. Additional benefits are available based on the child's assessed needs and may include dental and optical coverage, child minding and respite. Your worker will help you determine what is available.

- [Steps to Becoming a Care Provider Information Sheet](#)
- [Find a Ministry office](#)

- Call our Client Relations office at: 1 877 387-7027/Contact a [Delegated Aboriginal Agency](#)

## Becoming a Care Provider

- 1** **Contact an MCFD Office**

The parent(s) must call the local Ministry office or Delegated Aboriginal Agency to request service which may include services under the Extended Family Program. A parent can call 1 877 387-7027 for more information about services.
- 2** **Meet with a Worker**

A social worker from MCFD or a Delegated Aboriginal Agency will meet with the family – this includes the parent, the proposed care provider and the child – to assess the child’s needs and help determine if the Extended Family Program is the best fit, or if alternatives should be considered. If the child’s needs are best met by a plan to live outside their parent’s home, the family and worker will discuss what financial and other supports may be available through the Extended Family Program.

Even if the family doesn’t meet the criteria for the Extended Family Program, there are many programs available that can help families through a difficult period. You may be referred to another program through community services, such as parent/teen mediation, counselling or other services to meet the child’s special needs.
- 3** **Background Check**

The screening process for care providers includes:

  - A criminal record check;
  - A prior contact check to review any previous involvement the care provider may have had with the ministry or Delegated Aboriginal Agency;
  - Three written references, including two from family members and one from a non-family member who has known the applicant for at least three years; and
  - A home visit, to interview the care provider and all other individuals living in the home, to ensure the environment is suitable for the child’s needs.
  - An assessment of the care provider’s readiness, capacity and commitment to care for the child.
- 4** **Enter into an Agreement**

An agreement between the parent(s), the care provider and the ministry or Delegated Aboriginal Agency is signed. Working as a team, the family and worker will develop a plan for the child that details the services and supports necessary to meet the child’s needs.
- 5** **Ongoing Contact and Support**

The plan for the child will be reviewed by the social worker and family regularly to make sure that it still fits the child’s needs. Ultimately the plan is to reunite the child and their parent(s); however, if reunification cannot be achieved, an alternate permanency plan is developed to meet the child’s need for long-term stability.

# Fact Sheet for Proposed Guardians

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## Permanent Kinship Care

Safety, permanency, and well-being are goals for all children and youth. Research is clear that stable, healthy and lasting relationships greatly improve the long term social, emotional and physical health of children and youth. These relationships help to minimize the negative impact on young people when they are unable to return to their parents care.

Placements with relatives or adults who have an established relationship with a child or youth serve to maintain family connectedness, stability of relationships, cultural identity and achieve better outcomes when youth enter adulthood.

*Belonging 4 Ever: Creating Permanency for Youth in and from Care – Federation of BC Youth in Care Networks – August 2010 and Residential Review Project June 2012*

Kinship care is often used to describe situations when you are caring for a child who is a relative; has a significant relationship with you; or a child you have a cultural or traditional responsibility to. This fact sheet describes a process for transferring permanent guardianship of a child in kinship care when the Ministry of Children and Family Development (MCFD) or a Delegated Aboriginal Agency (DAA) is involved and a parent(s) is unable to resume care of their child.

Under the *Child, Family and Community Service Act (CFCSA)*, the primary goal is to have children return to their parents wherever possible. In the event that a parent(s) is unable to resume care of their child, it is important to have an alternate plan so young people don't have a long period of uncertainty about who will care for them. This alternate plan often includes the permanent transfer of custody to a proposed guardian.

### **Transferring guardianship when a child is unable to return to parental care**

When a child is unable to return to parental care at the end of an out of care Extended Family Program (EFP) agreement or an out of care court order, permanent custody can be legally transferred to extended family or other individuals who have a significant relationship with, or cultural or traditional responsibility to the child.

The safety, well-being and best interests of the child remain the primary consideration throughout the decision-making process. The permanent transfer of custody and guardianship is done only with the **consents** of the proposed guardian, the child, if they are 12 years of age or older, and the parents (when an out of care EFP agreement is in place). Proposed guardians, children 12 years of age and older and parents are advised to consult with independent legal counsel, prior to consenting to permanent kinship care. Others who are served with notice and appear at the hearing, such as a child's Aboriginal representative(s), are entitled to participate at the hearing.

### **Conditions that must be in place before an application can be initiated**

Unless an exception is made in the child's best interests, they must have been living with the proposed guardian for at least six consecutive months under an out of care EFP agreement or an out of care court order prior to an application to the court for permanent kinship care.

The proposed guardian must have completed the MCFD/DAA assessment process to the satisfaction of a social worker and a supervisor, including up-to-date prior contact (MCFD/DAA) and criminal records

checks on themselves and all people living in the home who are 18 years of age or older before the court can grant permanent kinship care.

#### **Responsibilities of a permanent guardian**

When permanent kinship care is granted, the legal guardian becomes responsible for the health and well-being of the child which includes, but is not limited to, making sure they are safe, emotionally secure, fed, receive medical care, are clothed, sent to school etc. The guardian is also responsible for the child's cultural and spiritual upbringing and as guardian of the child's estate, protects the legal and financial interests of the child. In general, the guardian has "parental responsibilities" and is expected to care for and raise the child in the way that is expected of all responsible parents.

#### **MCFD involvement after permanent guardianship is established**

When permanent kinship care is granted, MCFD will continue to provide financial support for the child's care including \$803.81 per child aged 11 years and under and \$909.95 per youth 12 years of age and over. The guardian assumes responsibility for the child's medical, dental and optical coverage and care. If the guardian is eligible for MSP premium assistance, the child will qualify for the Healthy Kids Program, which provides basic dental and optical coverage to dependents of low- to moderate-income families. All other supports and decisions for the child become the responsibility of the guardian. Like any parent, guardians can access other MCFD supports and services such as those available to children who qualify for specialized services through Children and Youth with Special Needs (CYSN).

#### **Estates, inheritance, status and rights**

When guardianship is granted, it includes guardianship of the child's estate. However, it does not affect the child's pre-existing inheritance or succession to property rights. Aboriginal rights or privileges of an Aboriginal child will not be impacted.

Being a child's guardian does not have the same legal effect for estate purposes as an adopted child. This means that a child, for whom you are guardian, will not automatically have any claim to your estate, unless you were to specifically decide to name that child as a beneficiary in your will. If you were to die without a will, the law would not consider the child to have any claim to your estate.

Similarly, you do not have any claim to the child's estate if the child were to die. Although a guardian has rights and responsibilities, if the child's natural or adoptive parents are still alive, those persons would have legal obligations towards their child from their estates and they would be the people who would have a legal entitlement to the child's estate.

#### **Access orders and future legal matters**

Any existing access orders made under the CFCSA terminate when permanent kinship care is granted. However, new access orders may be applied for by parents, grandparents and others under CFCSA at the time the permanent transfer of custody is applied for, or under the *Family Law Act* at a later date. Once custody has been transferred any future legal matters pertaining to guardianship fall under the *Family Law Act*.

**If you have questions or concerns about permanent kinship care, discuss them with your social worker. MCFD and the Delegated Aboriginal Agencies have formal complaints processes if required. An additional support may be the Grandparents Raising Grandchildren (GRG) Support Line contacts: by phone 604 558-4740 (Lower Mainland) or toll-free 1 855 474-9777 (provincewide); or by e-mail GRGline@parentsupportbc.ca.**

## Payment and Supplemental Benefits Table

Reference for Out-of-Care Options Practitioners

Program	Maintenance Payment	Basic Medical (MSP)	Extended Medical	Dental Optical	Child Care Subsidy & Surcharge	Child Tax Benefit Universal Child Care Benefit Child Disability Allowance
						Canada Revenue Agency
<b>MCFD</b>						
<b>Extended Family Program (Sec. 8)</b>	✓ Not income tested	✓	✓	✓	✓ Form CF2190	Care provider to contact CRA about eligibility
Age 0 to 11	\$554.27					
Age 12 to 19 (ends 19 <sup>th</sup> birthday)	\$625.00					
<b>Interim and Temporary Custody to Other (Sec. 35(2)(d); 41(1)(b); 42.2(4)(c) &amp; 49(7)(b))</b>	✓ Not income tested	✓ CSM Approval	✓ CSM Approval	*	✓	Not Eligible
Age 0 to 11	\$803.81					
Age 12 to 19 (ends 19 <sup>th</sup> birthday)	\$909.95					
<b>Post Transfer of Custody Assistance (Sec. 54.01 &amp; 54.1)</b>	✓ Not income tested	X	X	X	✓	Not Eligible
Age 0 – 11	\$803.81					
Age 12 to 19 (ends 19 <sup>th</sup> birthday)	\$909.95					
<b>Family Law Act (FLA) Guardianship</b> <small>Formerly Family Relations Act (FRA)</small>	\$0	X	X	X	X	Guardian to contact CRA about eligibility
<b>MCFD Restricted and Regular Foster Care</b>	✓ Not Income tested	✓	✓	✓	✓ Subsidy only	Not Eligible
Ages 0 – 11	\$803.81					
Age 12 to 19 (ends 19 <sup>th</sup> birthday)	\$909.95					
<b>Post Adoption Assistance (PAA)**</b>	Income and asset test Up to	X	X	X	X	Adoptive parent(s) to contact CRA about eligibility
Ages 0 – 11	\$701.55					
Age 12 to 19 (ends 19 <sup>th</sup> birthday)	\$805.68					

\* Funding may be available when considered on a case-by-case basis and approved by the Community Service Manager. (Paid by local cheque: Activity Code 14312)

\*\* Adoptive parents may be eligible for additional support services.

X Not available through MCFD. Section 54.01/54.1/FLA guardians and adoptive parents with low incomes may be eligible for Premium Assistance (MSP) and Healthy Kids Program (dental) available through the Ministry of Social Development.

**Maintenance Rate Increases by Care Category**

Care Type	Child Age	Current Rate	New Rate	Increase (\$)	Increase (%)
Foster Care	0 - 11	\$803.91	\$982.90	\$179.09	22.3%
Foster Care	12 - 18	\$909.95	\$1,089.04	\$179.09	19.7%
Out-of-Care (Interim and Temporary)	0 - 11	\$803.91	\$982.90	\$179.09	22.3%
Out-of-Care (Interim and Temporary)	12 - 18	\$909.95	\$1,089.04	\$179.09	19.7%
Out-of-Care (Permanent)	0 - 11	\$803.91	\$982.90	\$179.09	22.3%
Out-of-Care (Permanent)	12 - 18	\$909.95	\$1,089.04	\$179.09	19.7%
Extended Family Program	0 - 11	\$554.27	\$982.90	\$428.63	77.3%
Extended Family Program	12 - 18	\$625.00	\$1,089.04	\$464.04	74.2%
Post-Adoption Assistance	0 - 11	\$701.55	\$806.78	\$105.23	15.0%
Post-Adoption Assistance	12 - 18	\$805.68	\$926.53	\$120.85	15.0%

# Provincial Tuition Waiver Program

## Student FAQs

### Statement of Intent:

The aim of the Provincial Tuition Waiver Program (PTWP) is to improve access, services and educational outcomes for former youth in care by waiving tuition fees starting in September 2017.

Tuition fees are defined as all tuition and mandatory fees a student must pay an institution in order to successfully complete the program/courses they are enrolled in.

The intent of the PTWP is to be inclusive. If an individual falls outside of the following eligibility criteria, the Ministry of Advanced Education, Skills and Training (AEST) will consider exceptions on an individual basis.

### Eligibility Criteria

#### You are eligible for the PTWP if you:

- Are a B.C. student 19-26 years old (inclusive) attending a B.C. public post-secondary institution or an approved union trades training provider.
- Were formerly in a B.C. Ministry of Children and Family Development (MCFD) category of care for at least 24 months (consecutive or accumulated) – see **detailed summary of eligible categories of care on page 2**.

**Or**

- Were formerly in the Ministry of Social Development and Poverty Reduction program **Child in Home of Relative**.

#### Not eligible for the PTWP or for an appeal:

- Students claiming tuition fee reimbursements from the previous fiscal year<sup>1</sup>.
- Are 27 or older when you sign the waiver consent form.
- Have spent less than 24 total months in care.
- Student in Masters, PhD or post-graduate courses or programs.

#### If you do not meet the eligibility criteria:

- If you do not meet the eligibility criteria, and you are not in either of the “not eligible” categories, you may submit a request to the System Navigator ([tuitionwaiver@gov.bc.ca](mailto:tuitionwaiver@gov.bc.ca)) for consideration.
- The Navigator is a system liaison, connecting government, institutions, students and stakeholders around tuition waivers for former youth in care.

#### Step-by-Step – What you need to do to participate:

1. Complete institution application and self-identify as former youth in care meeting the PTWP eligibility.
2. Complete the consent form to disclose information and verify identity through your signature. This consent allows your institution to validate your eligibility with MCFD.

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<sup>1</sup> The Ministry fiscal year runs from April 01 to March 31 of each year.

## Provincial Tuition Waiver Program

3. Your institution will request validation of student eligibility from MCFD through AEST. See attached validation process information.
4. Your institution will admit you to your program of study without collecting tuition fees once you have met the admission requirements and if there is space in your program of choice. If you have already been verified and paid your fees for this current study period, your fees will be reimbursed. Application fees for the institution you are attending can be included in this amount.

### Eligible Categories of Care

**You are eligible for the PTWP if:**

You are a B.C. student 19-26 years old (inclusive) attending a B.C. public post-secondary institution or one of the 10 union trades training providers

**and**

You have received care<sup>2</sup> from MCFD or a Delegated Aboriginal Agency (DAA) through the *Child, Family and Community Service Act* for a minimum of twenty-four months (consecutive or accumulated) in any, or a combination, of the following categories:

- **Continuing Custody Order** pursuant to sections 41 (1) (d), 42.2 (4) (d) or (7) or 49 (4), (5) or 10 (a) of the Act
  - *A protective order in which the court has assigned permanent custody of the child to the Director of Child Welfare (the Director).*
- **Temporary Custody Order**
  - *A protective order in which the court has assigned custody of the child to the Director on a temporary basis.*
- **Special Needs Agreement** pursuant to section 7 of the Act
  - *A parent of a child with special needs may voluntarily and temporarily agree to place the child in the care of the Director.*
- **Voluntary Care Agreement** pursuant to section 6 of the Act
  - *A parent voluntarily and temporarily places the child in the care of the Director*
- **Youth Agreement** pursuant to section 12.2 of the Act
  - *The Director enters into an agreement with a youth (ages 16 – 19) who needs assistance to live independently and cannot be re-established with family.*
- **Extended Family Plan** pursuant to section 8 of the Act
  - *A parent voluntarily and temporarily places the child in the care of an adult who has an established familial, relational, or cultural connection to the child.*
- **Permanent Transfer of Custody Order** pursuant to section 54.01 or 54.1 of the Act
  - *An order in which the court permanently transfers custody to another (non-parent) family member or another adult with an established relational or cultural connection to the child.*
- **Temporary Transfer of Custody** pursuant to section 41(1)(b) of the Act

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<sup>2</sup> Includes both in care and out of care arrangements.

## Provincial Tuition Waiver Program

- *A protective order in which the court temporarily places the child in the custody of an adult who has an established familial, relational, or cultural connection to the child.*
- **Interim Custody of Care** pursuant to section 36(1) of the Act
  - As a result of an order made under one of the following sections of the *Child, Family and Community Service Act*: 35(2)(d), 41(1)(b), 42.1(6)(b), 42.2(4)(a), 42.2(4)(c), 49(7)(b)

Students who fall under the program **Child in Home of Relative**, which is administered by the Ministry of Social Development and Poverty Reduction, need to contact the System Navigator at [tuitionwaiver@gov.bc.ca](mailto:tuitionwaiver@gov.bc.ca).

### Student FAQs

#### **Q1. How do I know if I qualify?**

You will be asked to complete a consent form to disclose information and verify identity through your signature. A completed consent form provides the institution permission to verify your eligibility. The institution will submit your completed consent form to AEST for verification from MCFD. The verification process can vary from a couple of days to up to four weeks depending on the complexity of your records search.

#### **Q2. For the current school year, some students have already paid. What happens for them?**

If you have already paid tuition and mandatory fees and are eligible for the PTWP, you will be reimbursed by your institution. See **Q10: Can I claim a waiver retroactively?**

#### **Q3. What are tuition fees and what is covered?**

Tuition fees are all tuition and mandatory fees you pay your institution in order to successfully complete the program/courses you are enrolled in. Starting July, 01 2018, students that are qualified for the PTWP can also be reimbursed their application fees.

There are other government programs that can assist with other costs associated with post-secondary education. See the financial aid department at your institution for more information.

#### **Q4. Can I still access other/existing programs?**

The PTWP serves the specific purpose of waiving tuition fees for former youth in care and is not intended to replace existing programs. Other programs that help offset educational costs for former youth in care will continue. Contact your institution's financial aid department to determine eligibility for other programs and bursaries.

#### **Q5. What if I am already receiving funding through another program (e.g., YEAF or AYA), am I still eligible for a tuition waiver?**

Yes.

#### **Q6. Where can I find information about the PTWP?**

Information will be available on [Agedout.com](http://Agedout.com) as well as government websites such as AEST, MCFD, and DAA websites.

#### **Q7. Tuition is just one piece. What other supports are available?**

## Provincial Tuition Waiver Program

Students who were formerly in care represent a wide spectrum of the population. In many cases, these students will require additional supports and a dedicated point of contact. These supports will be considered for the 2018/19 school year.

Your government will engage with stakeholders, including institutions and students, to determine what these supports might look like and how they could be implemented.

Many institutions have various supports in place already. Please contact your financial aid office.

### **Q8. Does the PTWP also apply to private institutions?**

No. The PTWP applies only to B.C. public post-secondary institutions, Native Education College and union trades training providers. A list of all public post-secondary institutions can be found at: <http://www2.gov.bc.ca/gov/content/education-training/post-secondary-education/find-a-program-or-institution/find-an-institution>

### **Q9. What happens if I have to drop out after having my tuition fees reimbursed?**

You will be reimbursed by your institution upon verification of eligibility by AEST. If you have to drop out after the course/program drop date, you are not required to repay tuition.

### **Q10. Can I claim a waiver retroactively?**

Students may claim reimbursement for tuition paid at any time during the current fiscal year. The one exception will be those institutions that require early application deadlines i.e. January application deadlines for September intakes.

### **Q11. What about part-time students?**

The PTWP applies to part-time students as long as you remain enrolled beyond your institution's drop date for each study period.

### **Q12. Is successful completion a determinant of whether or not a tuition waiver is issued?**

The PTWP applies as long as you are still enrolled in a course or program beyond the drop date for each study period.

### **Q13. What are the limits on the type of programs (e.g., can students get tuition waived for a masters or medical degree)?**

The PTWP does not apply to Masters, PhD or post-graduate courses or programs. It does not apply to any Adult Basic Education programs and/or fees whatsoever.

Unlike StudentAid, there is no income test to be eligible. The PTWP will cover a wide range of study programs outlined below and there is no minimum course duration, course load, or maximum tuition fee coverage.

- Credit and non-credit courses leading to a certificate, diploma, credential or undergraduate degree. Dual degrees, except for those that are undergraduate and post-graduate in nature, also fall into this category.
- Courses taken during unclassified qualifying years, non-credit-based trades programs and continuing education programs eligible for student financial assistance.
- Apprenticeship training.

## **Provincial Tuition Waiver Program**

- Any non-credit courses associated with lifelong learning or competencies related to the labour market.



Instructions

# Response to Family Claim (Form F4)

Use this form to respond to the other party's Notice of Family Claim (Form F3). The self-help guide [How to respond to an application to start a family law case](#) has more information.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly.

If you print a blank form to fill in by hand and there isn't enough space:

- Open the Word form to add more space on-screen. Put the cursor in a grey box and press **enter/return** to create a new blank line, and print the form again.
- Or write "See attached" on the form and attach a page with the additional text. Clearly label the attachment; e.g., "Attachment to #1—Schedule 1."

As stated on the Notice of Family Claim (Form F3), you are the **respondent** and your spouse is the **claimant**. Insert your full legal names as stated on that form. Your spouse should have inserted your full legal names as listed on your marriage certificate, or your birth certificates if you weren't married, along with any other names you usually go by ("also known as").

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Respondent"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

### Form F4 (Rule 4-3(1))

Court File No.:   
Court Registry:

Fill in the same court file number and court registry as what's on the Notice of Family Claim (Form F3).

In the Supreme Court of British Columbia

Claimant:   
Respondent:

## RESPONSE TO FAMILY CLAIM

**Filed by:**  (the "respondent")

Fill in your name again (or names if there is more than one respondent).

### 1. Response to information in notice of family claim:

My position regarding the information set out in the notice of family claim is as follows:

The information set out in sections 1, 2 and 3 of the notice of family claim is correct.

The information set out in sections 1, 2 and 3 of the notice of family claim is not correct in the following respects:

Read how your spouse filled out numbers 1, 2, and 3 on the first two pages carefully. If there's something that isn't correct, describe how so.

Schedule 1:

The information set out in sections 1, 2, 3, 4 and 5 of Schedule 1 to the notice of family claim is correct.

The information set out in sections 1, 2, 3, 4 and 5 of Schedule 1 to the notice of family claim is not correct in the following respects:

If your spouse filled out schedules 1, 2, and/or 3, read them carefully. If there's something that isn't correct, describe how so.

E.g., Schedule 1—"My surname before marriage was Smith. I did not change it after my first marriage."

- Schedule 2:
  - The information set out in sections 1, 3, 5 and 6 of Schedule 2 to the notice of family claim is correct.
  - The information set out in sections 1, 3, 5 and 6 of Schedule 2 to the notice of family claim is not correct in the following respects:

█

- Schedule 3:
  - The information set out in sections 1 and 3 of Schedule 3 to the notice of family claim is correct.
  - The information set out in sections 1 and 3 of Schedule 3 to the notice of family claim is not correct in the following respects:

█

E.g., "The claimant's income is presently about \$15,000 because he was laid off and his income presently comes from EI. However, he is a trained bricklayer and is capable of earning about \$55,000 to \$65,000 a year."



**2. Response to claims in notice of family claim:**

**This is my response to claims made against me in the Schedules to the notice of family claim:**

If your spouse attached any of the schedules mentioned in this table, say whether you agree or disagree with what's in the schedule (what your spouse is asking the court for). You may agree with some parts of the notice of family claim but disagree with others.

Claim for divorce (Schedule 1, section 2)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Parenting arrangements (Schedule 2, section 4)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Child support (Schedule 2, section 7)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Spousal support (Schedule 3, section 2)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Division of family property and family debt (Schedule 4, section 1)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Other property claim(s) (Schedule 4, section 1)	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree

If you spouse attached Schedule 5, describe each claim on the schedule and say whether you agree or disagree.

Other orders (Schedule 5)

█	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
█	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree
█	<input type="checkbox"/> Agree	<input type="checkbox"/> Disagree

A mailing address that's not a PO box where you can regularly receive mail so that the other party can send court documents to you. It can be your lawyer's office if you have a lawyer.

**3. My address for service is**

Address for Service:

Fax (optional):

E-mail (optional):

The claimant may send you court documents by fax or email instead if you add this optional information.

If you don't live within 30 km of the court registry, you must provide a fax number or email address. If your main address is a PO box, you can list this instead of the fax or email, but you must also list an address that's not a PO box.

**Date of signature:** Use the date format **dd/Mmm/yyyy (01/Jan/2000)**, or hit **Tab** after filling it in to autofill.

See [Step 4](#) of **How to respond to an application to start a family law case**. It links to a separate guide for filling out the Financial Statement (Form F8).

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

Date: \_\_\_\_\_  
Signature of \_\_\_\_\_  
 filing party     lawyer for filing party(ies)  
\_\_\_\_\_  
[Type or print name]

If you have a lawyer, usually he or she will sign the document. Check off "filing party" if you sign this. The signature can't be separate from the rest of the form, so lines from the preceding paragraph will automatically move to this page.

**Note to Claimant AND Respondent**

You may be required to file **financial information** (Form F8) if there is a claim by you or against you for support of a child or spouse. See the note at the end of Schedule 2 of the notice of family claim for details.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

**LAWYER'S CERTIFICATE**  
(FAMILY LAW ACT, S. 8(2))

I, \_\_\_\_\_, lawyer for \_\_\_\_\_, certify that, in accordance with section 8(2) of the *Family Law Act*, I have

- (a) discussed with the party the advisability of using varying types of family dispute resolution to resolve the matter, and
- (b) informed the party of the facilities and other resources, known to me, that may be available to assist in resolving the dispute.

Date: \_\_\_\_\_  
Signature of lawyer \_\_\_\_\_  
\_\_\_\_\_  
[Type or print name]

Instructions

# Counterclaim (Form F5)

Use this form if you received a Notice of Family Claim (Form F3) and you want to ask the court for different and/or additional orders, whether it's for child or spousal support, for parenting, or about family property or debt. You must also file a Response to Family Claim (Form F4). This document tells the court more about you and your spouse, the details of your relationship and separation, and everything that you want the court to order. You must serve and file the Counterclaim within 30 days of receiving the Notice of Family Claim. Usually, you file and serve the Response to Family Claim and the Counterclaim at the same time.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly, and that if, for example, you fill in your name, it automatically appears elsewhere in the form.

If you print a blank form to fill in by hand and there isn't enough space:

- Open the Word form to add more space on-screen. Put the cursor in a grey box and press **enter/return** to create a new blank line, and print the form again.
- Or write "See attached" on the form and attach a page with the additional text. Clearly label the attachment; e.g., "Attachment to Schedule 2—Children."

As stated on the Notice of Family Claim (Form F3), you are the **respondent** and your spouse is the **claimant**. Insert your full legal names as stated on that form. Your spouse should have inserted your full legal names as listed on your marriage certificate, or your birth certificates if you weren't married, along with any other names you usually go by ("also known as").

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Respondent"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

Form F5 (Rule 4-4(2))

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

**COUNTERCLAIM**

**Filed by:**  (the "respondent")

**This counterclaim has been made by the above-named respondent(s) for the relief set out in section 1 below.**

If you intend to respond to this counterclaim, you or your lawyer must

(a) file a response to counterclaim in Form F6 in the above-named registry of this court within 30 days after the date on which a copy of the filed counterclaim was served on you, and

(b) serve a copy of the filed response to counterclaim on all parties.

**Orders, including orders granting the relief claimed, may be made against you if you fail to file the response to counterclaim within the 30 day period referred to above.**

Fill in the same court file number and court registry as what's on the Notice of Family Claim (Form F3). The top section—with the file number, registry, and your names—of all your court forms for this case must be identical.

Fill in your name again (or *names* if there is more than one respondent). Don't include "also known as" here. Hit **tab** after filling in your name so it shows up elsewhere in the form.

Instructions for the claimant (your spouse) once they get this form from you.

This section lets the court know whether you agree or disagree with your spouse about when the relationship began or ended."

### 1. Spousal relationship history

The claimant, [redacted], and the respondent, [redacted],

- began to live together in a marriage-like relationship on [redacted]
- were married on [redacted]
- separated on [redacted]
- were divorced from each other by order made on [redacted]

Insert the claimant's name; don't include "also known as" here. Fill in your name again if you're filling this out by hand.

Use the date format **dd/Mmm/yyyy (01/Jan/2000)**, or hit **Tab** after filling it in to autoforamt.

What do you want that's not listed in or that's different from the Notice of Family Claim? Make sure you check off the right box(es). For each box, fill out a schedule—they're at the end of the form.

**An order for divorce:** Only if you've been legally married. Fill out [Schedule 1](#).

**An order respecting child(ren):** About parenting and child support. Fill out [Schedule 2](#).

### 2. Counterclaim

The respondent is asking for the following:

- An order for divorce
- An order respecting child(ren)
- An order for spousal support
- An order relating to family property and family debt
- Another order
- An order for costs

**An order for spousal support:** For payments to support *you*, not the children. Fill out [Schedule 3](#).

**An order relating to family property and family debt:** Fill out [Schedule 4](#).

**Another order:** Includes a name change or a protection order. Fill out [Schedule 5](#).

**An order for costs:** To get the other party to pay a portion of your legal expenses after the court has made the orders you asked for. Fill out [Schedule 5](#).

A mailing address that's not a PO box where you can regularly receive mail so that the other party can send court documents to you. It can be your lawyer's office if you have a lawyer.

The claimant may send you court documents by fax or email instead if you add this optional information.

### 3. The respondent's address for service is

Address for Service: [redacted]

Fax (optional): [redacted]

E-mail (optional): [redacted]

If you don't live within 30 km of the court registry, you must provide a fax number or email address. If your main address is a PO box, you can list this instead of the fax or email, but you must also list an address that's not a PO box.

**Date of signature:** Use the date format **dd/Mmm/yyyy (01/Jan/2000)**, or hit **Tab** after filling it in to autoforamt.

Date: [redacted]

Signature of

- filing party
- lawyer for filing party(ies)

[redacted]

[Type or print name]

If you have a lawyer, usually he or she will sign the document. Check off "filing party" if *you* sign this. The signature can't be separate from the rest of the form, so the preceding table will automatically move to this page.

See [Step 4](#) of **How to respond to an application to start a family law case**. It links to a separate guide for filling out the Financial Statement (Form F8).

#### **Note to Claimant AND Respondent**

You may be required to file **financial information** (Form F8) if there is a claim by you or against you for support of a child or spouse. See the note at the end of Schedules 1 and 2 of the notice of family claim for details.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

# Schedule 1

Attach this schedule if you're applying for a [divorce](#).

**Form F5 (Rule 4-4(2))**

**SCHEDULE 1—DIVORCE**  
THIS IS SCHEDULE 1 TO THE COUNTERCLAIM OF [REDACTED]

**1. Personal Information**

	Claimant	Respondent
Birthdate:	[REDACTED]	[REDACTED]
<u>Ordinarily resident in British Columbia since:</u>	[REDACTED]	[REDACTED]
Surname at birth:	[REDACTED]	[REDACTED]
Surname immediately before marriage:	[REDACTED]	[REDACTED]
Marital status immediately before marriage:	[REDACTED]	[REDACTED]
Place of marriage:	[REDACTED]	[REDACTED]
Date of marriage:	[REDACTED]	[REDACTED]

**2. Grounds for the respondent's claim for divorce**

The respondent asks for an order for divorce on these grounds:

(i)  The respondent and his or her spouse have lived separate and apart since [REDACTED]

**AND**

the respondent and his or her spouse have not lived together since then

the respondent and his or her spouse have lived together again during the following period(s), in an unsuccessful attempt to reconcile:  
[REDACTED]

(ii)  **Other grounds**, under section 8(2)(b) of the *Divorce Act* (Canada):  
[REDACTED]

**AND**

The respondent has not condoned any act relied on under section 8(2)(b) of the *Divorce Act* (Canada) as a ground for divorce

← Insert your name again if you're filling this out by hand.

→ This means "Living in BC since . . ." If you don't know the exact date you started living in BC, estimate.

Either use the date format **dd/Mmm/yyyy (01/Jan/2000)** or hit **Tab** after filling in the date to autofomat.

← Choose either *never married*, *divorced*, or *widowed*.

← Include the city, province or state, and country.

→ Usually the grounds for divorce are you've been living separate and apart for a year. If this is the case, check off the relevant boxes under (i).

→ You can also apply for a divorce on the grounds of adultery or physical or mental cruelty (ii). You don't have to live apart for a year for a divorce on these grounds. (However, you must present evidence of the adultery or cruelty. Our [online self-help guides](#) don't cover this. Please seek legal advice.)

← Format the date ranges as "From 1/Jan/2012 to 1/May/2012."

You must check both boxes:

- First box: It's not possible you'll get back together with your spouse.
- Second box: You and your spouse haven't lied or tried to deceive the court in any way, e.g., saying that you've been separated for longer than you have been.

**Children of the marriage**  
= under 19, or 19 or over but you're still supporting because they're in school or they have an illness or disability that prevents them from becoming independent.

- If the children live part-time with each parent, mention this.
- If you have more than five children, place the cursor at the end of the line in the fifth row and hit **enter/return** to start a new line. After typing in the name, hit **ctrl-Tab** (Mac: **control-tab** or **option-tab**) to move the cursor to the birth date column.

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

### 3. The respondent confirms that:

- There is no possibility of reconciliation
- There has been no collusion, as defined in section 11(4) of the *Divorce Act* (Canada), in relation to this claim for divorce.

### 4. Proof of marriage

- A certificate of marriage or of registration of marriage [redacted] has been filed
- A certificate of marriage or of registration of marriage is not being filed with this counterclaim because [redacted], and the certificate will be filed before this claim is set down for trial or an application is made for an order of divorce
- It is impossible to obtain a certificate of marriage or of registration of marriage because [redacted]

See [How to get a copy of your marriage certificate](#).

• First box: You plan to file the marriage certificate with this form. If you're filing a translation from a foreign language, select "and translation" from the drop-down list or add it by hand.

• Second box: You plan to file the marriage certificate in the future. E.g., "we are waiting for the certificate to come from another country." You'll also have to provide a good reason why you're filing this claim without a marriage certificate.

### 5. Children

- There are no children of the marriage, as defined by the *Divorce Act* (Canada)
- The children of the marriage are:

Full name	Birth date	Resides with
[redacted]	[redacted]	[redacted]

### LAWYER'S CERTIFICATE (DIVORCE ACT (CANADA), S. 9)

I, [redacted], lawyer for [redacted], certify that I have complied with section 9 of the *Divorce Act* (Canada), which says:

9 (1) It is the duty of every barrister, solicitor, lawyer or advocate who undertakes to act on behalf of a spouse in a divorce proceeding

- (a) to draw to the attention of the spouse the provisions of this Act that have as their object the reconciliation of spouses, and
- (b) to discuss with the spouse the possibility of the reconciliation of the spouses and to inform the spouse of the marriage counselling or guidance facilities known to him or her that might be able to assist the spouses to achieve a reconciliation,

unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so.

(2) It is the duty of every barrister, solicitor, lawyer or advocate who undertakes to act on behalf of a spouse in a divorce proceeding to discuss with the spouse the advisability of negotiating the matters that may be the subject of a support order or a custody order and to inform the spouse of the mediation facilities known to him or her that might be able to assist the spouses in negotiating those matters.

Date: \_\_\_\_\_  
Signature of lawyer  
\_\_\_\_\_  
[Type or print name]

# Schedule 2

Attach this schedule if you're asking the court for any order related to children. See [Parenting apart](#) and [Child support](#).

Form F5 (Rule 4-4(2))

## SCHEDULE 2—CHILDREN

THIS IS SCHEDULE 2 TO THE COUNTERCLAIM OF [REDACTED]

Insert your name again if you're filling this out by hand.

### 1. Identification of child(ren)

The respondent is asking for an order in respect of the following child or children:

Child's full legal name	Child's birthdate	Child's relationship to the claimant	Child's relationship to the respondent	Child habitually resident in BC since	Child now living with
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

**Child's relationship to the claimant/respondent:** e.g., daughter, son, stepdaughter, stepson.

**Child habitually resident in BC since** = has been living in BC since.

**Child now living with:** e.g., claimant; claimant and respondent; respondent.

Either use the date format **dd/Mmm/yyyy (01/Jan/2000)** or hit **Tab** after filling in the date to autofomat.

To add more rows to the table, put your cursor in the last cell in the bottom row and press **Tab**.

### 2. Orders sought

The respondent is asking for the following order(s):

- an order respecting arrangements for parenting
- an order for child support

If checking off the first box, complete questions 3 and 4.

If checking off the second box, complete questions 5 to 7.

This should include:

- who the children live with and when
- who makes decisions about the children

[Parenting apart](#) will help you with the words to use and the concepts behind them. Describe how children spend time with people who aren't parents or guardians, if necessary.

### 3. Current arrangements for parenting

Current arrangements for parenting are:

[REDACTED]

E.g., "The claimant and the respondent share parenting time of the children, [name(s)], equally. The children spend one week with the claimant and then one week with the respondent. We each make day-to-day decisions about the children when they're with us. We share all major decision-making."

### 4. Proposed arrangements for parenting

The respondent proposes the following arrangements for parenting:

[REDACTED]

Describe what you're asking the court, and be as descriptive as for #3 above.

The respondent is asking for this order under

- the *Divorce Act* (Canada)     the *Family Law Act*

If you or the claimant currently pays child support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

**5. Current child support arrangements**

Current child support arrangements are:

█

Even though there's a check box to indicate that you don't know the person's income, you should, at least, make an estimate. State the gross income (total income before taxes and deductions).

**6. Income of person being asked to pay child support**

- The respondent does not know the income of the person being asked to pay child support
- The respondent believes that the income of the person being asked to pay child support is \$ █, based on these facts:

█

If unsure, make your best estimate and what you based your estimate on— e.g., "The claimant earned \$500 a week when we lived together and is still working at the same job."

**7. Proposed child support arrangements**

The respondent is asking for:

- support in the amount set out in the child support guidelines table for the following child(ren): █
- special or extraordinary expenses in accordance with section 7 of the child support guidelines for the following child(ren): █
- by consent, an order for support in an amount different than the amount set out in the child support guidelines table for the following child(ren): █

List the full names of children you want child support for. See [Child support](#), which explains how much would be paid under the Federal Child Support Guidelines, and what **special or extraordinary expenses** are.

Decide which act you're asking for your order for child support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) and [Parenting apart](#) explain the difference between the two acts.

The respondent is asking for an order for child support under

- the *Divorce Act* (Canada)     the *Family Law Act*

Decide which act you're asking for your order for parenting arrangements under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) and [Parenting apart](#) explain the difference between the two acts.

The box explains whether you have to file a Financial Statement. You must do so if the claimant is asking for an order that you pay child support. If you're requesting child support, you file financial information only under certain circumstances. [Step 1 of How to deal with a Supreme Court Financial Statement \(Form F8\)](#) has a version of this box that's easier to understand.

### Note to Claimant AND Respondent

You must file **financial information** (Form F8) if

- there is a claim against you for support of a child, OR
- you are claiming child support **unless all** of the following conditions apply:
  - (a) you are making no claim for any other kind of support;
  - (b) the child support is for children who are not stepchildren;
  - (c) none of the children for whom child support is claimed is 19 years of age or older;
  - (d) the income of the party being asked to pay child support is under \$150,000 per year;
  - (e) you are not applying for special expenses under [section 7](#) of the child support guidelines;
  - (f) you are not applying for an order under [section 8](#) of the child support guidelines;
  - (g) you are not applying for an order under [section 9](#) of the child support guidelines;
  - (h) you are not making a claim based on undue hardship under [section 10](#) of the child support guidelines.

If you do not file the financial information that is required, the court may attribute an amount of income to you, and make a support award against you, based on that amount.

# Schedule 3

Attach this schedule if you're asking the court to make an order for spousal support—payments to support you, not the children. (See [Spousal support](#) for more information.)

Form F5 (Rule 4-4(2))

## SCHEDULE 3—SPOUSAL SUPPORT

THIS IS SCHEDULE 3 TO THE COUNTERCLAIM OF [REDACTED]

← Insert your name again if you're filling this out by hand.

If you or the claimant currently pays spousal support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

### 1. Current arrangements for spousal support

The current arrangements for spousal support are:

[REDACTED]

Spousal support orders are often made according to the federal Spousal Support Advisory Guidelines. For more information, see [Spousal support](#).

### 2. Proposed spousal support arrangements

The respondent is asking for an order for spousal support as follows:

[REDACTED]

The respondent is asking for an order for spousal support under

the *Divorce Act* (Canada)       the *Family Law Act*

Decide which act you're asking for your order for spousal support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) explains the difference between the two acts.

### 3. Income of claimant and respondent

Fill in your gross income (your total income before taxes and deductions).

→ The respondent's gross annual income is \$ [REDACTED].

The respondent does not know what the claimant's income is

The respondent believes that the claimant's gross annual income is \$ [REDACTED], based on these facts:

[REDACTED]

← Even though there's a check box to indicate that you don't know your spouse's income, you should, at least, make an estimate.

If unsure, make your best estimate and say what you based your estimate on—**e.g.**, "The claimant earned \$500 a week when we lived together and is still working at the same job."

If you're asking for spousal support or the claimant is asking you to pay spousal support, you must file a Financial Statement. See [How to deal with a Supreme Court Financial Statement \(F8\)](#).

**Note to Claimant AND Respondent**

You must file **financial information** (Form F8) if there is a claim by you or against you for spousal support.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

# Schedule 4

Attach this schedule if you're asking the court for any order that has to do with property and debts. The BC *Family Law Act* says that all **family property** and **family debt** must be divided equally between you and your spouse after you separate unless you have an agreement that says otherwise. See [How to divide property and debts](#) and [Dealing with debts after separation](#).

Check either box. Remember, the court will only order an *unequal* division when an *equal* division is **significantly unfair**.

**Real property** = land and buildings. A **legal description** is used in legal documents to describe a piece of land—and it isn't a street address. You can get the legal description from your tax assessment or your certificate of title.

This section is for property claims not covered by the *Family Law Act*—property that is *not* family property. This includes:

- *excluded property*, such as gifts or inheritances the other party received while you were together and property owned by the other party at the time you moved in together
- property owned by a third party
- property you're claiming on the basis of *unjust enrichment* (a legal concept used to get a share of property that you're not entitled to under the *Family Law Act*)

Form F5 (Rule 4-4(2))

## SCHEDULE 4—PROPERTY

THIS IS SCHEDULE 4 TO THE COUNTERCLAIM OF [REDACTED]

← Insert your name again if you're filling this out by hand.

### 1. The respondent's claims

#### A. Property and debt claims under the *Family Law Act*

The respondent is asking for an order for:

- equal division of family property and family debt
- unequal division of family property and family debt, as follows and on the following grounds:  
[REDACTED]

The address and legal description of any real property in which the claimant claims an interest as a family property is:  
[REDACTED]

#### B. Other property claims

The respondent claims:

- an interest in the following property:  
[REDACTED]
- an order for compensation instead of an interest in the property described as  
[REDACTED]

on the following grounds:  
[REDACTED]

You can ask for an **interest in the property** (part ownership) or **compensation** (money). If the property is real estate, provide the **legal description**. (A legal description is used in legal documents to describe a piece of land—and it isn't a street address. You can get the legal description from your tax assessment or your certificate of title.)

If you think your spouse might sell or borrow against property that you think you should have a share of, you can take steps to prevent that from happening—by registering a **Certificate of Pending Litigation** against the property. This tells anyone interested in buying or loaning money against the property that who owns it is being decided by a lawsuit.

## 2. Certificate of Pending Litigation

- The respondent is applying for a Certificate of Pending Litigation to be registered against the following real property:



# Schedule 5

Attach Schedule 5 if you're asking the court for any other orders, including name changes, [protection orders](#), annulments, and an order for [costs](#). You don't need to ask for a legal change of name if you're just going back to the name you used before marriage.

Form F5 (Rule 4-4(2))

## SCHEDULE 5—OTHER ORDERS

THIS IS SCHEDULE 5 TO THE COUNTERCLAIM OF [REDACTED]

← Insert your name again if you're filling this out by hand.

The respondent is asking for the following orders:

an order under the *Name Act* that the respondent's name be changed from [REDACTED] to [REDACTED]

→ List orders under the *Family Law Act* that you're requesting (orders that weren't listed in any of the preceding schedules). Use numbered paragraphs. Include the sections of the act. **E.g.**, "a protection order under s. 183."

the following orders under the *Family Law Act*

1. [REDACTED]

→ List any other orders you're requesting. Use numbered paragraphs. Say what the **legal authority** for the order is—usually the name of the law. **E.g.**, "an order for [describe] under s. [section number] of the *Divorce Act*." If you want costs, just write "an order that I have my costs in this proceeding."

other orders

1. [REDACTED]

Court File No.: **File Number**  
Court Registry: **Town**

## In the Supreme Court of British Columbia

Claimant:

**FULL NAME**

Respondent:

**FULL NAME**

### NOTICE OF APPLICATION

**Name of Applicant: Your Full Name**

To: **Other Party's Full Name**

TAKE NOTICE that an application will be made by the applicant to the presiding judge or master at the courthouse at **Street Address** in **Town**, British Columbia at 9:45am on **date** for the orders set out in Part 1 below.

#### Part 1: Orders Sought

1. *describe the orders you want the court to make in a numbered list*
2. ...

#### Part 2: Factual Basis

1. *state the facts that support the application you are making*
2. ...

#### Part 3: Legal Basis

1. *state the reasons why the court should make the order you are asking for; list any statutory provisions or case authorities you are relying on*
2. ...

## Part 4: Material to be Relied Upon

1. Affidavit #number of Full Name, made on date;
2. Financial Statement #number of Full Name, made on date;
3. ...

The applicant estimates that the application will take number minutes.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

## Responding to Application

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to the application, you must, within the time for response to application described below,

- (a) file an Application Response in Form F32;
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the family law case; and,
- (c) serve on the applicant 2 copies, and on every other party one copy, of the following
  - (i) a copy of the filed Application Response,
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person, and
  - (iii) if this application is brought under Rule 11-3, any notice that you are required to give under Rule 11-3(9).

## Time for Response to Application

The documents referred to in paragraph (c) above must be served in accordance with that paragraph,

- (a) unless one of the following paragraphs applies, within 5 business days after service of this Notice of Application;

- (b) if this application is brought under Rule 11-3, within 8 business days after service of this Notice of Application; and,
- (c) if this application is brought to rescind, change or suspend a final order, within 14 business days after service of this Notice of Application.

Date: \_\_\_\_\_

\_\_\_\_\_  
**YOUR FULL NAME**

The Applicant

**To be completed by the court only**

Order made:

on the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application

with the following variations and additional terms

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Master

**Appendix**

THIS APPLICATION INVOLVES THE FOLLOWING:

- document discovery: comply with demand for documents
- document discovery: production of additional documents
- document discovery: other matters concerning document discovery
- oral discovery: extend oral discovery
- oral discovery: other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- interim order
- change order
- adjournments
- proceedings at trial
- experts: appointment of additional expert(s): financial matters
- experts: other matters concerning experts

## Instructions

# Notice of Family Claim (Form F3)

This form is for those who want to apply in Supreme Court for a divorce, most orders under the *Divorce Act* and the *Family Law Act* (including parenting orders, support orders, and orders about property and debt), and name changes, protection orders, and orders for costs. It gives the court details about you and your spouse, your relationship and separation, and what you're asking the court for. **Undefended (uncontested) divorces** (i.e., you don't expect the respondent to oppose any of the orders you're asking for): Everything on this form and the schedules should be the same as what's in any written agreement or court order you may already have.

If you're filling this out on-screen, use the **Tab** key to go from grey field to grey field. This will ensure dates are formatted correctly, and that if, for example, you fill in your name, it automatically appears elsewhere in the form.

If you print a blank form to fill in by hand and there isn't enough space:

- Open the Word form to add more space on-screen. Put the cursor in a grey box and press **enter/return** to create a new blank line, and print the form again.
- Or write "See attached" on the form and attach a page with the additional text. Clearly label the attachment; e.g., "Attachment to Schedule 2—Children."

### Form F3 (Rule 4-1(1))

Court File No:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

## NOTICE OF FAMILY CLAIM

**This family law case has been started by the claimant(s) for the relief set out in section 4 below.**

If you intend to respond to this family law case, you or your lawyer must

- file a response to family claim in Form F4 in the above-named registry of this court within 30 days after the date on which this copy of the filed notice of family claim was served on you, and
- serve a copy of the filed response to family claim on the claimant.

If you intend to make a counterclaim, you or your lawyer must

- file a response to family claim in Form F4 and a counterclaim in Form F5 in the above-named registry of this court within 30 days after the date on which this copy of the filed notice of family claim was served on you, and
- serve a copy of the filed response to family claim and counterclaim on the claimant and on any new parties named in the counterclaim.

**Orders, including orders granting the relief claimed, may be made against you if you fail to file the response to family claim within the 30 day period referred to above.**

You are the **claimant**; your spouse is the **respondent**. Full legal name—see your marriage certificate, or your birth certificate if you weren't married. If you usually go by another name, add "also known as." The [divorce self-help guide](#) has more information, including what to do if you legally changed your name after marrying.

(To add another party: Hit **enter/return** in the grey box to start a new line, type the role (e.g., "Claimant," "Respondent by counterclaim"), and then **Ctrl-Tab** (Mac: **control-tab** or **option-tab**) before the name to centre the cursor.)

**Court File No.:** When you file your first documents, registry staff will give your case a number. Leave this number blank until then. Once you get a number, use it for all your documents.

**Court Registry:** e.g., Vancouver. Click [here](#) to find the Supreme Court Registry nearest you.

Instructions for the respondent (your spouse) once they get this form from you. The self-help guide [How to respond to an application to start a family law case](#) has more information.

Insert your name again; don't include "also known as" here. Hit **tab** after filling in your name so it shows up elsewhere in the form.

Repeat for the respondent.

(If there is more than one claimant/respondent, hit **enter/return** at the end of the line to start a new one.)

You may have to check off more than one box. Leave this section blank if you didn't marry and never lived together.

- The names of the claimant and respondent will come up automatically when you print the form.
- Either use the date format **dd/Mmm/yyyy (01/Jan/2000)** or hit **Tab** after filling in the date to autoformat.

Do you have a previous written agreement, court order, or legal proceeding that relates to what you're asking for in this family law case? E.g., you want a child support order, and you have a past court order about child support.

What do you want? Make sure you check off the right box(es). For each box, fill out a schedule—they're at the end of the form. For an undefended (uncontested) divorce, the assumption is that both spouses agree on what the order will say about all these issues.

**An order for divorce:** Only if you've been legally married. Fill out [Schedule 1](#).

**An order respecting child(ren):** About parenting and child support. Fill out [Schedule 2](#).

## 1. Information about the parties

The claimant, [redacted], is [redacted]

The respondent, [redacted], is [redacted]

## 2. Spousal relationship history

The claimant [redacted] and the respondent [redacted]

- began to live together in a marriage-like relationship on [redacted]
- were married on [redacted]
- separated on [redacted]
- were divorced from each other by order made on [redacted]

## 3. Prior court proceedings and agreements

- There is no prior agreement, court order or court proceeding relating to any of the claims made in this notice of family claim.
- One or more of the following relates to claims made in this notice of family claim:
  - a written agreement dated [redacted]
  - a court order dated [redacted]
  - a prior court proceeding: [redacted]

## 4. The claimant's claims

The claimant is asking for the following:

- An order for divorce
- An order respecting child(ren)
- An order for spousal support
- An order relating to family property and family debt
- Another order
- An order for costs

Describe your relationship to the respondent:

- If you got legally married: "The claimant, [name], is **married to the respondent.**"
- If you lived together but never legally married (i.e., in a religious or legal ceremony): "The claimant, [name], is **no longer living in a marriage-like relationship with the respondent.**"

Repeat for the respondent.

**Marriage-like relationship** = lived together but never married (i.e., in a religious or legal ceremony). Estimate if you don't know the exact date.

Fill in the court file number and court registry.

**An order for spousal support:** For payments to support *you*, not the children. Fill out [Schedule 3](#).

**An order relating to family property and family debt:** Fill out [Schedule 4](#).

**Another order:** Includes a name change or a protection order. Fill out [Schedule 5](#).

**An order for costs:** To get the other party to pay your legal expenses after you've won a case. Fill out [Schedule 5](#).

The place of trial will appear automatically when you print the form if you filled out the court registry on the first page.

[Addresses of Supreme Court registries](#)

A mailing address that's not a PO box where you can regularly receive mail so that the other party can send court documents to you. It can be your lawyer's office if you have a lawyer.

The respondent may send you court documents by fax or email instead if you add this optional information.

**Date of signature:** Use the date format **dd/Mmm/yyyy (01/Jan/2000)**, or hit **Tab** after filling it in to autoformat.

For your lawyer to sign, if you have one. It says that he or she has talked to you about different ways to resolve your dispute (e.g., mediation). If you don't have a lawyer, leave this blank.

5. Place of trial will be: [redacted]

6. The address of the registry is:

[redacted]

7. The claimant's address for service is

Address for Service: [redacted]

Fax (optional): [redacted]

E-mail (optional): [redacted]

Date: [redacted] \_\_\_\_\_  
Signature of  claimant  lawyer for claimant(s)  
[redacted] \_\_\_\_\_  
[Type or print name]

**LAWYER'S CERTIFICATE**  
(FAMILY LAW ACT, s. 8(2))

I, [redacted], lawyer for [redacted],  
certify that, in accordance with section 8(2) of the *Family Law Act*, I have

- (a) discussed with the party the advisability of using various types of family dispute resolution to resolve the matter, and
- (b) informed the party of the facilities and other resources, known to me, that may be available to assist in resolving the dispute

Date: [redacted] \_\_\_\_\_  
Signature of lawyer  
[redacted] \_\_\_\_\_  
[Type or print name]

If you don't live within 30 km of the court registry, you must provide a fax number or email address. If your main address is a PO box, you can list this instead of the fax or email, but you must also list an address that's not a PO box.

If you have a lawyer, usually he or she will sign the document. Check off claimant if *you* sign this. The signature can't be separate from the rest of the form, so lines from the preceding paragraph will automatically move to this page.

# Schedule 1

Attach this schedule if you're applying for a [divorce](#).

**Form F3 (Rule 4-1(1))**

**SCHEDULE 1—DIVORCE**  
THIS IS SCHEDULE 1 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

**1. Personal Information**

	Claimant	Respondent
Birthdate:	[ ]	[ ]
Ordinarily resident in British Columbia since:	[ ]	[ ]
Surname at birth:	[ ]	[ ]
Surname immediately before marriage:	[ ]	[ ]
Marital status immediately before marriage:	[ ]	[ ]
Place of marriage:	[ ]	
Date of marriage:	[ ]	

**2. Grounds for the claimant's claim for divorce**

The claimant asks for an order for divorce on these grounds:

(i)  The claimant and his or her spouse have lived separate and apart since [ ]

**AND**

the claimant and his or her spouse have not lived together since then.

the claimant and his or her spouse have lived together again during the following period(s), in an unsuccessful attempt to reconcile:  
[ ]

(ii)  **Other grounds**, under section 8(2)(b) of the *Divorce Act* (Canada):  
[ ]

**AND**

The claimant has not condoned any act relied on under section 8(2)(b) of the *Divorce Act* (Canada) as a ground for divorce.

This means "Living in BC since . . ." If you don't know the exact date you started living in BC, estimate.

Either use the date format dd/Mmm/yyyy (01/Jan/2000) or hit Tab after filling in the date to autofomat.

Choose either *never married, divorced, or widowed*.

City, province or state, and country.

Usually the grounds for divorce are you've been living separate and apart for a year. If this is the case, check off the relevant boxes under (i).

Format the date ranges as "From 1/Jan/2012 to 1/May/2012."

You can also apply for a divorce on the grounds of adultery or physical or mental cruelty (ii). You don't have to live apart for a year for a divorce on these grounds. (However, you must present evidence of the adultery or cruelty. Our [online self-help guides](#) don't cover this. Please seek legal advice.)

You must check both boxes:

- First box: It's not possible you'll get back together with your spouse.
- Second box: You and your spouse haven't lied or tried to deceive the court in any way, e.g., saying that you've been separated for longer than you have been.

**3. The claimant confirms that:**

- There is no possibility of reconciliation.
- There has been no collusion, as defined in section 11(4) of the *Divorce Act* (Canada), in relation to this claim for divorce.

**4. Proof of marriage**

- A certificate of marriage or of registration of marriage [redacted] has been filed
- A certificate of marriage or of registration of marriage is not being filed with this notice of family claim because [redacted], and the certificate will be filed before this claim is set down for trial or an application is made for an order of divorce
- It is impossible to obtain a certificate of marriage or of registration of marriage because: [redacted]

See [How to get a copy of your marriage certificate.](#)

- First box: You plan to file the marriage certificate with this form. If you're filing a translation from a foreign language, select "and translation" from the drop-down list or add it by hand.
- Second box: You plan to file the marriage certificate in the future. E.g., "we are waiting for the certificate to come from another country." You'll also have to provide a good reason why you're filing this claim without a marriage certificate.

**5. Children**

- There are no children of the marriage as defined by the *Divorce Act* (Canada)
- The children of the marriage are:

**Children of the marriage** = under 19, or 19 or over but you're still supporting because they're in school or they have an illness or disability that prevents them from becoming independent.

- If the children live part-time with each parent, mention this.
- If you have more than five children, place the cursor at the end of the line in the fifth row and hit **enter/return** to start a new line. After typing in the name, hit **ctrl-Tab** (Mac: **control-tab** or **option-tab**) to move the cursor to the birth date column.

Full name	Birth date	Resides with
[redacted]	[redacted]	[redacted]

**LAWYER'S CERTIFICATE**  
*(DIVORCE ACT (CANADA), s. 9)*

I, \_\_\_\_\_, lawyer for \_\_\_\_\_,  
certify that I have complied with section 9 of the *Divorce Act* (Canada),  
which says:

**9** (1) It is the duty of every barrister, solicitor, lawyer or advocate  
who undertakes to act on behalf of a spouse in a divorce proceeding  
(a) to draw to the attention of the spouse the provisions of this  
Act that have as their object the reconciliation of spouses, and  
(b) to discuss with the spouse the possibility of the  
reconciliation of the spouses and to inform the spouse of the  
marriage counselling or guidance facilities known to him or  
her that might be able to assist the spouses to achieve a  
reconciliation,

unless the circumstances of the case are of such a nature that it would  
clearly not be appropriate to do so.

(2) It is the duty of every barrister, solicitor, lawyer or advocate  
who undertakes to act on behalf of a spouse in a divorce proceeding to  
discuss with the spouse the advisability of negotiating the matters that  
may be the subject of a support order or a custody order and to inform  
the spouse of the mediation facilities known to him or her that might be  
able to assist the spouses in negotiating those matters.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of lawyer

\_\_\_\_\_  
[Type or print name]

For your lawyer to sign, if  
you have one. It says that  
he or she has talked to you  
about different ways to  
resolve your dispute (e.g.,  
mediation). If you don't  
have a lawyer, leave this  
blank.

# Schedule 2

Attach this schedule if you're asking the court for any order related to children. See [Parenting apart](#) and [Child support](#).

Form F3 (Rule 4-1(1))

## SCHEDULE 2—CHILDREN

THIS IS SCHEDULE 2 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

### 1. Identification of child(ren)

The claimant is asking for an order in respect of the following child or children:

Child's full legal name	Child's birthdate	Child's relationship to the claimant	Child's relationship to the respondent	Child habitually resident in BC since	Child now living with

**Child's relationship to the claimant/respondent:** e.g., daughter, son, stepdaughter, stepson.

**Child habitually resident in BC since** = has been living in BC since.

**Child now living with:** e.g., claimant; claimant and respondent; respondent.

Either use the date format **dd/Mmm/yyyy (01/Jan/2000)** or hit **Tab** after filling in the date to autofill.

To add more rows to the table, put your cursor in the last cell in the bottom row and press **Tab**.

### 2. Orders sought

The claimant is asking for the following order(s):

- an order respecting arrangements for parenting for a child or children
- an order for child support

If checking off **(a)**, complete questions 3 and 4.

If checking off **(b)**, complete questions 5 to 7.

### 3. Current arrangements for parenting

Current arrangements for parenting are:

This should include:

- who the children live with and when
- who makes decisions about the children

[Parenting apart](#) will help you with the words to use and the concepts behind them. Describe how children spend time with people who aren't parents or guardians, if necessary.

E.g., "The claimant and the respondent share parenting time of the children, [name(s)], equally. The children spend one week with the claimant and then one week with the respondent. We each make day-to-day decisions about the children when they're with us. We share all major decision-making."

### 4. Proposed arrangements for parenting

The claimant proposes the following arrangements for parenting:

Describe what you're asking the court, and be as descriptive as for #3 above.

The claimant is asking for this order under

- the *Divorce Act* (Canada)
- the *Family Law Act*

Decide which act you're asking for your order for parenting arrangements under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) and [Parenting apart](#) explain the difference between the two acts.

If you or the respondent currently pays child support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

**5. Current child support arrangements**

Current child support arrangements are:

█

Even though there's a check box to indicate that you don't know the person's income, you should, at least, make an estimate. This is especially important if you think your spouse won't respond to this notice and you end up going through an undefended/uncontested divorce. The judge will need an amount to make the court order. State the gross income (total income before taxes and deductions).

**6. Income of person being asked to pay child support**

- The claimant does not know the income of the person being asked to pay child support
- The claimant believes that the income of the person being asked to pay child support is \$ █, based on these facts:

█

If unsure, make your best estimate and say what you based your estimate on— e.g., "The respondent earned \$500 a week when we lived together and is still working at the same job."

**7. Proposed child support arrangements**

The claimant is asking for:

- support in the amount set out in the child support guidelines table for the following child(ren): █
- special or extraordinary expenses in accordance with section 7 of the child support guidelines for the following child(ren): █
- by consent, an order for support in an amount different than the amount set out in the child support guidelines table for the following child(ren): █

Decide which act you're asking for your order for child support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) and [Parenting apart](#) explain the difference between the two acts.

List the full names of children you want child support for. See [Child support](#), which explains how much would be paid under the Federal Child Support Guidelines, and what **special or extraordinary expenses** are.

The claimant is asking for an order for child support under

- the *Divorce Act* (Canada)
- the *Family Law Act*

The box explains whether you have to file a Financial Statement. If you're requesting child support, you file financial information only under certain circumstances. [Step 3](#) of **How to start a family law case** has a version of this box that's easier to understand.

If you have to fill out a Financial Statement, see [How to deal with a Supreme Court Financial Statement \(Form F8\)](#).

### Note to Claimant AND Respondent

You must file **financial information** (Form F8) if

- there is a claim against you for support of a child, OR
- you are claiming child support **unless all** of the following conditions apply:
  - (a) you are making no claim for any other kind of support;
  - (b) the child support is for children who are not stepchildren;
  - (c) none of the children for whom child support is claimed is 19 years of age or older;
  - (d) the income of the party being asked to pay child support is under \$150,000 per year;
  - (e) you are not applying for special expenses under [section 7](#) of the child support guidelines;
  - (f) you are not applying for an order under [section 8](#) of the child support guidelines;
  - (g) you are not applying for an order under [section 9](#) of the child support guidelines;
  - (h) you are not making a claim based on undue hardship under [section 10](#) of the child support guidelines.

If you do not file the financial information that is required, the court may attribute an amount of income to you, and make a support award against you, based on that amount.

# Schedule 3

Attach this schedule if you're asking the court to make an order for spousal support—payments to support you, not the children. (See [Spousal support](#) for more information.)

If you or the respondent currently pays spousal support, say how much and how often. If you have a written agreement about this, write down what it says and what is actually being paid.

Spousal support orders are often made according to the federal Spousal Support Advisory Guidelines. For more information, see [Spousal support](#).

Decide which act you're asking for your order for spousal support under. If you didn't marry, you must use the *Family Law Act*. If you're married, you have a choice. [Which laws apply to your case?](#) explains the difference between the two acts.

Fill in your gross income (your total income before taxes and deductions).

Form F3 (Rule 4-1(1))

## SCHEDULE 3—SPOUSAL SUPPORT

THIS IS SCHEDULE 3 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

### 1. Current arrangements for spousal support

Current spousal support arrangements are:

### 2. Proposed spousal support arrangements

The claimant is asking for an order for spousal support as follows:

The claimant is asking for an order for spousal support under

the *Divorce Act* (Canada)       the *Family Law Act*

### 3. Income of claimant and respondent

The claimant's gross annual income is \$ .

The claimant does not know what the claimant's spouse's income is

The claimant believes that the claimant's spouse's gross annual income is \$ , based on these facts:

Even though there's a check box to indicate that you don't know your spouse's income, you should, at least, make an estimate. This is especially important if you think your spouse won't respond to this notice and you end up going through an undefended/uncontested divorce. The judge will need an amount to make the court order.

If unsure, make your best estimate and say what you based your estimate on—**e.g.**, "The respondent earned \$500 a week when we lived together and is still working at the same job."

If you're asking for spousal support or the respondent is asking you to pay spousal support, you may be required to file a Financial Statement. See [How to deal with a Supreme Court Financial Statement \(F8\)](#).

**Note to Claimant AND Respondent**

You may be required to file **financial information** (Form F8) if there is a claim by you or against you for spousal support.

If you do not file the financial information that is required, the court may attribute an amount of income to you and make a support award against you, based on that amount.

# Schedule 4

Attach this schedule if you're asking the court for any order that has to do with property and debts. The BC *Family Law Act* says that all **family property** and **family debt** must be divided equally between you and your spouse after you separate unless you have an agreement that says otherwise. See [How to divide property and debts](#) and [Dealing with debts after separation](#).

Form F3 (Rule 4-1(1))

## SCHEDULE 4—PROPERTY

THIS IS SCHEDULE 4 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

### 1. The claimant's claims

#### A. Property and debt claims under the *Family Law Act*

The claimant is asking for an order for:

- equal division of family property and family debt
- unequal division of family property and family debt as follows and on the following grounds:

█

The address and legal description of any real property in which the claimant claims an interest as a family property is:

█

#### B. Other property claims

The claimant claims:

- an interest in the following property:
- █
- an order for compensation instead of an interest in the property described as

█

on the following grounds:

█

Check either box. Remember, the court will only order an *unequal* division when an *equal* division is **significantly unfair**.

**Real property** = land and buildings. A **legal description** is used in legal documents to describe a piece of land—and it isn't a street address. You can get the legal description from your tax assessment or your certificate of title.

This section is for property claims not covered by the *Family Law Act*—property that is *not* family property. This includes:

- *excluded property*, such as gifts or inheritances the other party received while you were together and property owned by the other party at the time you moved in together
- property owned by a third party
- property you're claiming on the basis of *unjust enrichment* (a legal concept used to get a share of property that you're not entitled to under the *Family Law Act*)

The court will need a lot of information if you're filing for an undefended (uncontested) divorce; it's a good idea to attach a detailed separation agreement to the Affidavit — Desk Order Divorce (Form F38) ([step 5](#)). If the other party disagrees with what you're asking for, you'll have to convince the judge to make the orders you want through evidence later on.

You can ask for an **interest in the property** (part ownership) or **compensation** (money). If the property is real estate, provide the legal description.

If you think your spouse might sell or borrow against property that you think you should have a share of, you can take steps to prevent that from happening—by registering a **Certificate of Pending Litigation** against the property. This tells anyone interested in buying or loaning money against the property that who owns it is being decided by a lawsuit.

## 2. Certificate of Pending Litigation

- The claimant is applying for a Certificate of Pending Litigation to be registered against the following real property:



# Schedule 5

Attach Schedule 5 if you're asking the court for any other orders, including name changes, [protection orders](#), annulments, and an order for [costs](#). You don't need to ask for a legal change of name if you're just going back to the name you used before marriage.

List orders under the *Family Law Act* that you're requesting (orders that weren't listed in any of the preceding schedules). Use numbered paragraphs. Include the sections of the act. **E.g.**, "a protection order under s. 183."

List any other orders you're requesting. Use numbered paragraphs. Say what the **legal authority** for the order is—usually the name of the law. **E.g.**, "an order for [describe] under s. [section number] of the *Divorce Act*." If you want costs, just write "an order that I have my costs in this proceeding."

**Form F3 (Rule 4-1(1))**

**SCHEDULE 5—OTHER ORDERS**  
THIS IS SCHEDULE 5 TO THE CLAIMANT'S NOTICE OF FAMILY CLAIM.

The claimant is asking for the following orders:

an order under the *Name Act* that the claimant's name be changed from [redacted] to [redacted]

the following orders under the *Family Law Act*

1. [redacted]

other orders

1. [redacted]

# Supreme Court Family Pick List

## Table of Contents

A. Divorce Act .....	2
B. Guardianship .....	3
C. Parental Responsibilities .....	4
D. Parenting Time, Transport, Exchange .....	6
E. Contact.....	8
F. Conduct - Communication, Alcohol & Drugs.....	9
G. Child support .....	11
H. Spousal Support .....	12
I. Arrears .....	13
J. Financial Disclosure .....	14
K. Variation, Suspension, Termination .....	15
L. Parentage .....	16
M. Section 211 Reports, Voice of the Child (“VOC”) Reports, and Hear The Child (“HTC”) Reports.....	17
N. Service .....	18
O. Transfer File.....	19
P. Dispense with signature .....	20
Q. Family Property and Assets.....	21
R. Property Protection .....	23
S. Family Debt .....	24
T. Pension.....	25
U. Passports/ Travel.....	26

<b>Divorce Act</b>		
A1	Sole-Custody	The PARTYNAME shall have sole custody of the child(ren).
A2	Interim Custody	The PARTYNAME shall have interim custody of the child(ren) until further agreement of the parties or order of the Court.
A3	Joint Custody	The PARTYNAME and the PARTYNAME shall have joint custody of the child(ren).
A4	Divorce Order S. 12 of Divorce Act	Subject to s. 12 of the Divorce Act (Canada), the Claimant, NAME, and the Respondent, NAME, who were married at LOCATION on DATE, are divorced from each other. The divorce to take effect on the 31 <sup>st</sup> day after the date of this order.
A5	Joyce Model	<p>The PARTYNAME and the PARTYNAME will share joint custody of the child(ren), pursuant to the Joyce model as follows:</p> <ol style="list-style-type: none"> <li>1. In the event of the death of a guardian, the surviving guardian(s) will be the only guardian(s) of the child;</li> <li>2. Each guardian will have the obligation to advise the other guardian(s) of any matters of a significant nature affecting the child;</li> <li>3. Each guardian will have the obligation to discuss with the other guardians any significant decisions that have to be made concerning the child, including significant decisions about the health (except emergency decisions), education, religious instruction and general welfare;</li> <li>4. The guardians will have the obligation to discuss significant decisions with each other and the obligation to try to reach agreement on those decisions;</li> <li>5. In the event that the guardians cannot reach agreement on a significant decision despite their best efforts, the guardian with the majority of parenting time with the child will be entitled to make those decisions and the other guardian(s) will have the right to apply for directions on any decision the guardian(s) consider(s) contrary to the best interests of the child, under s. 49 of the <i>Family Law Act</i>; and,</li> <li>6. Each guardian will have the right to obtain information concerning the child directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.</li> <li>7. Other.</li> </ol>

## Guardianship

B1	Guardianship Presumed s. 39(1) of FLA	The PARTYNAME shall be the guardian(s) of the child(ren) under s. 39(1) of the Family Law Act.
B2	Guardianship Presumed s. 39(3) of FLA	The Court is satisfied that PARTYNAME(S) is/are the guardian(s) of the child(ren) under s. 39(3) of the Family Law Act.
B3	Guardian Appointed	The PARTYNAME(S) is/are appointed guardian(s) of the child(ren) under s. 51(1)(a) of the Family Law Act.
B4	Interim Guardian Appointed	The PARTYNAME(S) is/are appointed guardian(s) of the child(ren) on an interim basis until DATE.
B5	Inform Guardians	Each guardian will advise the other guardian of any matters of a significant nature affecting the child(ren).
B6	Consult Guardians	Each guardian will consult the other guardian about any important decisions that must be made and will try to reach agreement concerning these important issues.

Parental Responsibilities		
C1	Sole Responsibility s. 40(3)(a) of FLA	The PARTYNAME will have all of the s. 41 parental responsibilities for the child(ren), under s. 40(3)(a) of the Family Law Act.
C2	Equal Responsibility s. 40(2) of FLA	The guardians will share equally all of the s. 41 parental responsibilities for the child(ren) under s. 40(2) of the Family Law Act.
C3	Specified Usual Responsibilities s. 40(2) of FLA	<p>The PARTYNAME will have the following s. 41 parental responsibilities for the child(ren) under s. 40(2) of the Family Law Act:</p> <p>(a) Making day to day decisions affecting the child(ren) and having day to day care, control and supervision of the child(ren);</p> <p>(b) Making decisions about where the child(ren) will reside;</p> <p>(c) Making decisions about the child(ren)'s educational, cultural, medical, religious and spiritual upbringing.</p> <p>(d) [list any additional responsibilities]</p>
C4	List Statutory Responsibilities s. 40(2) of FLA	<p>The PARTYNAME will have the following s. 41 parental responsibilities under s. 40(2) of the Family Law Act:</p> <p>Section 41 of the Family Law Act:</p> <p>(a) making day-to-day decisions affecting the child and having day-to-day care, control and supervision of the child;</p> <p>(b) making decisions respecting where the child will reside;</p> <p>(c) making decisions respecting with whom the child will live and associate;</p> <p>(d) making decisions respecting the child's education and participation in extracurricular activities, including the nature, extent and location;</p> <p>(e) making decisions respecting the child's cultural, linguistic, religious and spiritual upbringing and heritage, including, if the child is an aboriginal child, the child's aboriginal identity;</p> <p>(f) subject to section 17 of the Infants Act, giving, refusing or withdrawing consent to medical, dental and other health-related treatments for the child;</p> <p>(g) applying for a passport, licence, permit, benefit, privilege or other thing for the child;</p> <p>(h) giving, refusing or withdrawing consent for the child, if consent is required;</p>

		<p>(i) receiving and responding to any notice that a parent or guardian is entitled or required by law to receive;</p> <p>(j) requesting and receiving from third parties health, education or other information respecting the child;</p> <p>(k) subject to any applicable provincial legislation, (i) starting, defending, compromising or settling any proceeding relating to the child, and (ii) identifying, advancing and protecting the child's legal and financial interests;</p> <p>(l) exercising any other responsibilities reasonably necessary to nurture the child's development.</p>
C5	Joyce Model	<p>The PARTYNAME and the PARTYNAME share equally all of the s. 41 parental responsibilities for the child(ren) under s. 40(2) of the Family Law Act, pursuant to the Joyce model as follows:</p> <ol style="list-style-type: none"> <li>1. In the event of the death of a guardian, the surviving guardian(s) will be the only guardian(s) of the child;</li> <li>2. Each guardian will have the obligation to advise the other guardian(s) of any matters of a significant nature affecting the child;</li> <li>3. Each guardian will have the obligation to discuss with the other guardians any significant decisions that have to be made concerning the child, including significant decisions about the health (except emergency decisions), education, religious instruction and general welfare;</li> <li>4. The guardians will have the obligation to discuss significant decisions with each other and the obligation to try to reach agreement on those decisions;</li> <li>5. In the event that the guardians cannot reach agreement on a significant decision despite their best efforts, the guardian with the majority of parenting time with the child will be entitled to make those decisions and the other guardian(s) will have the right to apply for directions on any decision the guardian(s) consider(s) contrary to the best interests of the child, under s. 49 of the <i>Family Law Act</i>; and,</li> <li>6. Each guardian will have the right to obtain information concerning the child directly from third parties, including but not limited to teachers, counsellors, medical professionals, and third party care givers.</li> <li>7. Other.</li> </ol>

<b>Parenting Time, Transport, Exchange</b>		
D1	Equal Parenting Time	The guardians will share parenting time equally as agreed between them.
D2	Reasonable Parenting Time	PARTYNAME will have reasonable parenting time at dates and times agreed between the guardians.
D3	Liberal and Generous Parenting Time	PARTYNAME will have liberal and generous parenting time at dates and times agreed between the guardians.
D4	Primary Residence	PARTYNAME will have primary residence of the child[ren] and PARTYNAME will have parenting time specified as follows.
D5	Parenting Time Every Specified Day	PARTYNAME will have parenting time every DAYOFWEEK from STARTTIME to FINISHTIME, commencing on STARTDATE.
D6	Parenting Time Alternate Specified Days	PARTYNAME will have parenting time on alternate DAYOFWEEK's from STARTTIME to FINISHTIME, commencing on STARTDATE.
D7	Parenting Time Every Weekend	PARTYNAME will have parenting time every weekend from DAYOFWEEK at STARTTIME until DAYOFWEEK at FINISHTIME, commencing STARTDATE.
D8	Parenting Time Alternate Weekends	PARTYNAME will have parenting time on alternate weekends from DAYOFWEEK at STARTTIME until DAYOFWEEK at FINISHTIME, commencing STARTDATE.
D9	Stat Holiday Parenting Time	If the day preceding or following the weekend is a statutory holiday or professional development day, the parenting time will include that extra day.
D10	Supervised Parenting Time	PARTYNAME's parenting time will be supervised by NAME or another person agreed between the guardians.
D11	Parenting Time In Presence	PARTYNAME's parenting time will take place in the presence of NAME or another person agreed between the guardians.
D12	Christmas Parenting Time	PARTYNAME will have the following parenting time on Christmas Eve and Christmas Day.
D12 (b)	Alternate Years Christmas Parenting Time	PARTYNAME will have the following parenting time during the Christmas season: [insert schedule]. In the following year, the schedule will be reversed and the parties will alternate parenting time on Christmas season in each subsequent year.
D13	Winter Holidays Parenting Time	PARTYNAME will have the following parenting time during the winter school holidays: [insert schedule]
D13 (b)	Alternate Years Winter School Holidays Parenting Time	PARTYNAME will have the following parenting time during the winter school holidays: [insert schedule]. In the following year, the schedule will be reversed and the parties will alternate parenting time in subsequent winter school holidays.
D14	Spring Break Parenting Time	PARTYNAME will have the following parenting time during the spring school break: [insert schedule]

D15	Spring Break Parenting Time	PARTYNAME will have the following parenting time during the spring school break: [insert schedule]. In the following year, the schedule will be reversed and the parties will alternate spring break parenting times in each subsequent year.
D16	Summer Parenting Time	PARTYNAME will have the following parenting time with the child(ren) during the child(ren)'s summer holidays: [insert schedule]
D16 (b)	Summer Parenting Time	By [insert date] the parties will exchange their proposed summer holiday schedule for the coming year.
D17	Default Summer Parenting Time	The guardians will each have parenting time for [period] each summer at dates and times agreed between them, but if they are unable to agree, then PARTYNAME will have the children for [specified period].
D18	Father's Day and birthday	Despite the regular parenting schedule, the father will have parenting time with the child(ren) from STARTTIME to FINISHTIME on Father's Day and on his birthday.
D19	Mother's Day and birthday	Despite the regular parenting schedule, the mother will have parenting time with the child(ren) from STARTTIME to FINISHTIME on Mother's Day and on her birthday.
D20	Child's birthday	The parent who is exercising parenting time on the day of the child(ren)'s birthday shall celebrate the child's birthday with the child.
D21	Parenting Time Transport	PARTYNAME will drop off the child(ren) at the beginning of PARTYNAME's parenting time at LOCATION and PARTYNAME will return the child(ren) at the end of his/her parenting time at LOCATION.
D22	Contact Transport	PARTYNAME will pick up and PARTYNAME will drop off the child(ren) at the beginning and ending of PARTYNAME's contact at LOCATION at TIME.
D23	Exchange	The child(ren) will be exchanged at LOCATION.

<b>Contact</b>		
E1	Reasonable Contact	PARTYNAME will have reasonable contact with the child(ren) at dates and times agreed between the parties.
E2	Liberal and Generous Contact	PARTYNAME will have liberal and generous contact with the child(ren) at dates and times agreed between the parties.
E3	Contact Every Specified Day	PARTYNAME will have contact with the child(ren) every DAYOFWEEK from STARTTIME to FINISHTIME, commencing STARTDATE.
E4	Contact Alternate Specified Days	PARTYNAME will have contact with the child(ren) on alternate DAYOFWEEK from STARTTIME to FINISHTIME, commencing STARTDATE.
E5	Contact Every Weekend	PARTYNAME will have contact with the child(ren) every weekend from DAYOFWEEK at STARTTIME until DAYOFWEEK at FINISHTIME, commencing STARTDATE.
E6	Contact Alternate Weekends	PARTYNAME will have contact with the child(ren) on alternate weekends from DAYOFWEEK at STARTTIME until DAYOFWEEK at FINISHTIME, commencing STARTDATE.
E7	Stat Holiday Contact	If the day preceding or following the weekend is a statutory holiday or professional development day, the contact time will include that extra day.
E8	Supervised Contact s. 59(3) of FLA	Under s. 59(3) of the Family Law Act, PARTYNAME's contact will be supervised by NAME or another person agreed between the parties.
E9	Contact in Presence	PARTYNAME's contact will take place in the presence of NAME or another person agreed between the parties.
E10	Christmas Contact	PARTYNAME will have the following contact with the child(ren) during the Christmas school holidays: [insert schedule]
E11	Winter Holidays Contact	PARTYNAME will have the following contact with the child(ren) during the winter school holidays: [insert schedule]
E12	Spring Break Contact	PARTYNAME will have the following contact with the child(ren) during the spring school break: [insert schedule]
E13	Summer Contact	PARTYNAME will have the following contact with the child(ren) during the children's summer holidays: [insert schedule]

<b>Conduct - Communication, Alcohol &amp; Drugs</b>		
F1	Phone/Electronic Communication	PARTYNAME will have reasonable telephone and/or electronic communication with the child(ren) while they are in the care of PARTYNAME.
F2	Specified Phone/Electronic Communication	PARTYNAME will have reasonable telephone and/or electronic communication with the child(ren) between STARTTIME and ENDTIME on DAYSOFWEEK. PARTYNAME will initiate the communication via [method of communication such as Skype or Face Time].
F3	One Party Communication Restriction	Under s. 225 of the Family Law Act PARTYNAME will have no communication with PARTYNAME except [describe means and/or circumstances of permitted communication].
F4	Mutual Communication Restriction	Under s. 225 of the Family Law Act, the parties will communicate with each other only [describe means and/or circumstances of permitted communication].
F5	Children's Interests Conduct	The parties will: (a) put the best interests of the child(ren) before their own interests;  (b) encourage the child(ren) to have a good relationship with the other parent and speak to the child(ren) about the other parent and that parent's partner in a positive and respectful manner; and  (c) make a real effort to maintain polite, respectful communications with each other, refraining from any negative or hostile criticism, communication or argument in front of the child(ren).
F6	Speech to Children Conduct	The parties will not: (a) question the child(ren) about the other parent or time spent with the other parent beyond simple conversational questions;  (b) discuss with the child(ren) any inappropriate adult, court or legal matters; or  (c) blame, criticize or disparage the other parent to the child(ren).
F7	Family Speech Conduct	The parties will encourage their respective families to refrain from any negative comments about the other parent and his or her extended family, and from discussions in front of the child(ren) concerning family issues or litigation.
F8	No Alcohol/Drugs	PARTYNAME will not consume or possess any alcohol or controlled substances within the meaning of Section 2 of the Controlled Drugs and Substances Act, except as prescribed by a licensed physician, during contact or parenting time and for [duration] hours before having contact or parenting time.

F9	Drug Test	PARTYNAME will provide urine or hair follicle test results [insert schedule for tests]. The cost of any such tests will be paid for by PARTYNAME.
F9 (b)	Drug Test	On request PARTYNAME will undergo random urine or hair follicle tests at [drug testing location] and will authorize release of the test results to PARTYNAME. The cost of any such tests will be paid for by PARTYNAME.

### Child Support

G1	Income Finding	PARTYNAME is found to be a resident of British Columbia and is found to have a gross annual income of \$ AMOUNT.
G2	Imputed Income	PARTYNAME is found to be a resident of British Columbia and is imputed to have a gross annual income of \$ AMOUNT.
G3	Child Support Payments	PARTYNAME will pay to PARTYNAME the sum of \$ AMOUNT per month for the support of the child(ren), commencing on STARTDATE and continuing on the [1 <sup>st</sup> , 15 <sup>th</sup> , 31 <sup>st</sup> etc.] day of each and every month thereafter, for as long as the child(ren) is/are eligible for support under the Family Law Act or until further agreement of the parties or Court order.
G4	Extraordinary Expenses	PARTYNAME will pay to PARTYNAME the sum of \$ AMOUNT per month commencing on STARTDATE and continuing on the [1 <sup>st</sup> , 15 <sup>th</sup> , 31 <sup>st</sup> etc ]day of each month thereafter for the child(ren)'s special or extraordinary expenses.
G5	Proportionate Shares	PARTYNAME will pay to PARTYNAME his/her proportional share for the child(ren)'s special or extraordinary expenses. The parties respective proportional shares are PARTYNAME [share amount]% and PARTYNAME [share amount]%. The following expenses will be special or extraordinary expenses [insert list/include such other expenses as agreed to by the parties].
G6	Reimbursement	The party incurring a special or extraordinary expense shall provide the other party with a receipt for reimbursement.
G7	List of expenses	The parties agree that the following expenses shall be considered special or extraordinary expenses for the child(ren): [list of expenses]
G8	Other expenses	No other expenses will be considered special or extraordinary unless agreed to by the parties in advance or by further Court order.

### Spousal Support

H1	Guideline Income	For the purposes of calculating support payments under the Spousal Support Advisory Guidelines, the PARTYNAME income is set at \$ AMOUNT a year for YEAROFINCOME.
H2	Spousal Support Until Termination	PARTYNAME will pay to PARTYNAME for his or her support the sum of \$ AMOUNT per month, commencing on STARTDATE and continuing on the [1 <sup>st</sup> , 15 <sup>th</sup> , 31 <sup>st</sup> etc.] day of each and every month thereafter until ENDDATE, at which time spousal support will be terminated.
H3	Spousal Support Until Review or Further Order	PARTYNAME will pay to PARTYNAME for his or her support the sum of \$ [amount] per month, commencing on STARTDATE and continuing on the [1 <sup>st</sup> , 15 <sup>th</sup> , 31 <sup>st</sup> etc.] day of each and every month thereafter until [end date or event], at which time spousal support will be reviewed for quantum and/or entitlement [or any other specified reason for review]. [or until further order of the court].
H4	Varying Support	The parties may vary the amount of spousal support by agreement or seek to do so by Court order.

**Arrears**

I1	Arrears Quantum Only	The arrears owing from PARTYNAME to PARTYNAME as of DATE are \$ AMOUNT, including principal and interest.
I2	Arrears Quantum with Default Fees	The arrears owing from PARTYNAME to PARTYNAME as of DATE are \$ AMOUNT, including principal and interest and default fees.
I3	Arrears Payment	PARTYNAME will pay to PARTYNAME a minimum of \$ AMOUNT per month towards the arrears of maintenance, in addition to regular monthly maintenance payments, commencing on STARTDATE and continuing on the [1 <sup>st</sup> , 15 <sup>th</sup> , 31, <sup>st</sup> etc.] day of each month thereafter until the arrears are paid in full or until further agreement of the parties or Court Order.

### Financial Disclosure

J1	Form 8 Financial Disclosure	PARTYNAME will complete, file with the Registry of this Court, and deliver to PARTYNAME a sworn Financial Statement in Form 8 of the Supreme Court (Family) Rules, including all attachments listed on page 2 of that Form by [due date].
J2	Annual Financial Disclosure	For as long as the child(ren) is/are eligible to receive child support, the parties will exchange:  (a) copies of their respective income tax returns for the previous year, including all attachments, not later than DATE each year; and  (b) copies of any Notice of Assessment or Reassessment provided to them by Canada Revenue Agency, immediately upon receipt.
J3	Penalty s. 213(2)(d) of FLA	PARTYNAME will pay up to \$5,000 to PARTYNAME if he or she fails to file financial information in accordance with this Order. This award is in addition to and not in place of any other remedy under Section 213(2)(d) of the Family Law Act.

### Variation, Suspension, Termination

K1	Variation	The Order of Judge/Master NAME, made DATE, is changed as follows: [variation order].
K2	Without Notice Order Changed	The Order of Judge/Master NAME, made DATE, in the absence of PARTYNAME is changed as follows: [variation order].
K3	Without Notice Order Suspended	The Order of Judge/Master NAME, made DATE, in the absence of PARTYNAME is suspended until [date OR circumstance].
K4	Without Notice Order Terminated	The Order of Judge/Master NAME, made DATE, in the absence of PARTYNAME is terminated.

### Parentage

L1	DNA Test s. 33(2) of FLA	The parties and the child will have tissue and/or blood samples taken by a qualified person for the purpose of conducting parentage tests under s. 33(2) of the Family Law Act.
L2	DNA Test and Costs s. 33(2) of FLA	The parties and the child will have tissue and/or blood samples taken by a qualified person for the purpose of conducting parentage tests, with the costs to be [insert order] under s.33(2) of the Family Law Act.

**Section 211 Reports, Voice of the Child (“VOC”) Reports,  
and Hear The Child (“HTC”) Reports**

M1	Full Report by Family Justice Counsellor	A Family Justice Counsellor will prepare a report to assess [state issue(s) as specifically as possible such as parenting time, contact, guardianship, parental responsibilities, or other].
M2	Full Report Named Preparer	[Preparer’s name] will prepare a report to assess [state issue(s) as specifically as possible such as parenting time, contact, guardianship, parental responsibilities, or other].
M3	Full Report Named Preparer and Costs	[Preparer’s name] will prepare a report to assess [state issue(s) as specifically as possible such as parenting time, contact, guardianship, parental responsibilities, or other) with the cost to be [insert order] .
M4	VOC Report by Family Justice Counsellor	A Family Justice Counsellor will prepare a report to assess the views of the child(ren) about [insert order].
M5	VOC Report Named Preparer	[Preparer’s name] will prepare a report to assess the views of the child(ren) about [insert order] .
M6	VOC Report Named Preparer and Costs	[Preparer’s name] will prepare a report to assess the views of the child(ren) about [insert order] with the cost to be [insert order] .
M7	HTC Report by Family Justice Counsellor	A Family Justice Counsellor will prepare a non-evaluative Hear The Child report for [name and birthdate of child(ren)] about [insert question[s] to be addressed].
M8	HTC Report by Named Preparer	[Preparer’s name] will prepare a non-evaluative Hear The Child report for [name and birthdate of child(ren)] about [insert question[s] to be addressed].
M9	HTC Report by Named Preparer and Costs	[Preparer’s name] will prepare a non-evaluative Hear The Child report for [name and birthdate of child(ren)] about [insert question[s] to be addressed] with the cost to be [insert order].

### Service

N1	Service Order Only	The Applicant will personally serve the Respondent with a copy of this Order by DATE and file an Affidavit of Service in the Supreme Court Registry by DATE.
N2	Service Order and Documents	The Applicant will personally serve the Respondent with a copy of this Order and [documents]_by DATE and file an Affidavit of Service in the Supreme Court Registry by DATE.
N3	Sub Service	PARTYNAME may serve PARTYNAME with [document type] by [service method] and such service will be deemed sufficient service on PARTYNAME effective on the date of service.
N4	Service by Peace Officer	A copy of this Order will be served on PARTYNAME by a peace officer by DATE and the peace officer will provide proof of service to the Supreme Court Registry at LOCATION, British Columbia by DATE.

### Transfer File

O1	Transfer File For All Purposes	File No. ____ be transferred to the Supreme Court Registry at LOCATION, British Columbia, for all purposes.
O2	Transfer File Single Purpose	File No. ____ be transferred to the Supreme Court Registry at LOCATION, British Columbia, for the purpose of hearing the application filed on [filing date].
O3	Consolidate File	Consolidate Provincial Court [Registry] proceedings No. _____ with these proceedings.

### Dispense with Signature

P1	Dispense with Signature	The requirement to obtain PARTYNAME's signature approving the form of this Order is dispensed with.
P2	Dispense with Signature if no Response to Draft	PARTYNAME will prepare a draft of this order for review by PARTYNAME . PARTYNAME will have 7 days in which to provide comments on the draft. If no comments are received, PARTYNAME may submit the order without the signature of PARTYNAME.

Family Property and Assets		
Q1	Family Property	Parties agree that the following property is family property: [list property]
Q2	Excluded Property	Parties agree that the following property is excluded family property: [insert excluded property list] belongs to PARTYNAME [insert excluded property list] belongs to PARTYNAME
Q3	Interim Distribution of Family Property	<p>PARTYNAME is entitled to an interim distribution of family property in the amount of [insert amount] from [insert institution and account number] to provide money to fund:</p> <p>(a) family dispute resolution</p> <p>(b) all or part of a proceeding under FLA</p> <p>(c) obtaining information of evidence in support of family dispute resolution or an application.</p>
Q4	Exclusive Occupancy of Family Home	<p>PARTYNAME is to have exclusive occupancy of the family residence located at [address] commencing on DATE:</p> <p>(a) until the property is sold</p> <p>(b) until trial (c) until child(ren)'s is/are no longer a child(ren) of the marriage as defined by the Family Law Act or Divorce Act.</p> <p>(d) until (date specified)</p>
Q5	Storage of Personal Property at Family Home	PARTYNAME is to have use of the following personal property stored at the family residence to exclusion of NAME: [list property]
Q6	Right To Apply to Postpone sale	<p>PARTYNAME has the right to apply for:</p> <p>(a) partition and sale</p> <p>(b) sale of</p> <p>(c) encumbrance of to be postponed until DATE or SPECIFIEDEVENT</p>
Q7	Attendance to Remove Personal Property	PARTYNAME may attend at the family residence located at ADDRESS to remove all of his/her personal property.
Q8	Attendance to Remove Specified Personal Property	PARTYNAME may attend at the family residence located at ADDRESS to remove the following items from his/her personal property: [list items]
Q9	Unequal Division of Family Property	PARTYNAME shall be entitled to an unequal division of the following family property: [list property]
Q10	Owner of Property	PARTYNAME is the owner of the following property: [list property]

Q11	Right of Possession	PARTYNAME has a right of possession to the following property: [list property]
Q12	Transfer / Vested Title	Title to the following property shall be transferred to OR vested in PARTYNAME and/or child(ren): [list property]
Q13	Property Held in Trust	PARTYNAME holds the following property in trust for PARTYNAME and/or child(ren): [list property]
Q14	Compensation	PARTYNAME shall pay compensation in the amount of \$ [insert amount] to PARTYNAME for the following property: [list property] that was (a) disposed of (b) transferred or (c) converted or exchanged into another form.
Q15	Compensation For Dividing Property	PARTYNAME shall pay compensation in the amount of \$ AMOUNT to PARTYNAME for the purpose of dividing property.
Q16	Sale of Family Home	The family residence located at ADDRESS is to be listed for sale with REALTORNAME.
Q17	Joint Conduct of Sale	PARTYNAME and PARTYNAME are to have joint conduct of sale.
Q18	Sole Conduct of Sale	PARTYNAME will have sole conduct of sale.
Q19	Proceeds of Sale of Family Home	The proceeds of the sale of the family residence to be used as follows:  (a) pay mortgage [name of institution or institutions]  (b) pay other encumbrances registered against the title [list]  (c) pay real estate commission  (d) usual closing adjustments  (e) other
Q20	Net Proceeds of Sale Distributed Equally	The net proceeds of the sale of the family residence to be distributed equally between PARTYNAME and PARTYNAME as follows: \$ [insert amount] to PARTYNAME_\$ [insert amount] to PARTYNAME
Q21	Net Proceeds of Sale Held in Trust	The net proceeds of the sale of the family residence are to be held in trust in PARTYNAME's trust account until further agreement or Court Order.

### Property Protection

R1	Restraining Order for Personal Property	PARTYNAME and/or PARTYNAME is/are prohibited from disposing of, transferring, converting or exchanging into another form any property at issue in this proceeding including:  (a) bank accounts  (b) investment accounts  (c) RRSPs  (d) specified property and/or any exceptions
R2	Restraining Order for Transferring Corporate Shares	PARTYNAME and/or PARTYNAME is/are prohibited from disposing of, or transferring shares in [name of corporation] until agreement between the parties or a Court Order.
R3	Restraining Order for Voting Corporate Shares	PARTYNAME and/or PARTYNAME is/are prohibited from voting shares in [name of corporation] for purposes of:  (a) paying out shareholder loans  (b) disposing of company assets  (c) issuing shares  (d) other without agreement of the parties or a Court Order.

### Family Debt

S1	Equal Division of Family Debt	Parties agree that the following debts are family debts and each will be equally responsible for them: [list name(s) of institution(s) and/or creditor(s)]
S2	Sole Responsibility of Family Debt	Parties agree that the PARTYNAME will be solely responsible for the following family debts: [list name(s) of institution(s) and/or creditor(s)]

### Pension

T1	Provide Security for Performance	PARTYNAME to provide security for performance of the following obligations: [list obligations].
T2	Pension Not Divisible	The PARTYNAME's pension benefits administered by [insert name] are not divisible.
T3	Division of Pension	PARTYNAME is entitled to [insert percentage]% share or division of PARTYNAME's pension administered by [insert name].
T4	File Division Application with Plan	PARTYNAME will file the necessary application with the pension plan's administrator to give effect to the division.
T5	Pay Compensation for Loss Share	PARTYNAME1 shall pay compensation to PARTYNAME2 for the loss of PARTYNAME2's proportionate share under a supplemental pension plan.

### Passports/ Travel

U1	Surrender Passport	The PARTYNAME shall surrender their passport to the Registry for safekeeping until further order of the Court.
U2	Surrender Passport to party	The PARTYNAME shall surrender the child[ren]'s passport to PARTYNAME for the purposes of travel to LOCATION from DATE to DATE.
U3	Dispense with signature on Passport application	The requirement to obtain PARTYNAME's consent for the child[ren] to travel [to] with PARTYNAME from DATE to DATE is dispensed with.
U4	Travel plans and itinerary	The PARTYNAME is permitted to travel to LOCATION with the child(ren) from DATE to DATE. In advance of the travel, PARTYNAME is to provide PARTYNAME with a travel itinerary, contact addresses and telephone numbers.
U5	Specified Phone/Electronic Communication during travel	PARTYNAME will have reasonable telephone and/or electronic communication with the child(ren) between STARTTIME and ENDTIME on DAYSOFWEEK. PARTYNAME will initiate the communication via [method of communication such as Skype or Face Time] during the duration of the trip.

*LSS Family Law Services*  
*Family Advice: Duty Counsel and Family*  
*LawLINE*



*Provincial Advocates Conference*  
*Presentation By:*

*October 9, 2019*

*Adina Popescu*

*Family Case Assessment Lawyer*  
*Legal Services Society*

# Family Advice Services

- \* How to get help or advice
  - \* while waiting for a lawyer to be appointed, if urgent
  - \* after contract hours are used up and client now self-representing
  - \* if client not financially eligible for representation but is for advice
  - \* if client's family law legal issues are not covered

# Family Advice Services

- \* Family Duty Counsel
- \* Family LawLINE

# Who are the lawyers?

- \* Lawyers in private practice who have been contracted by LSS to provide Family Duty Counsel or Family LawLINE services
- \* Minimum 2 years family law experience, most have considerably more
- \* Limited roster of lawyers in each location
- \* All take some legal aid cases
- \* In applicable locations, lawyers from the Parents Legal Centre will also act as duty counsel on family list days

# Who are the clients?

- \* Self-represented parties
- \* People who have a lawyer, either privately or on legal aid, are not eligible for FDC or Family LawLINE services
- \* Must be financially eligible for advice services
- \* Clients who are not financially eligible may be given up to 45 minutes of advice at the lawyer's discretion

# What do the lawyers help with?

- \* Brief legal advice about the law and procedure
- \* Review documents
- \* Assist clients who are preparing documents themselves, but FDC cannot prepare documents for a client
- \* Emergency applications
- \* Referrals to legal aid (if appropriate) or other resources (such as Family Justice Counselors, the Child and Youth Legal Centre, etc.)

# What does FDC help with (continued)?

- \* Assistance in Provincial Court on family list days
- \* Sometimes can participate in case conferences if arranged in advance: up to 2 hours of attendance plus up to 3 hours preparation time
- \* Maximum 3 hours of advice for financially eligible clients

# What FDC cannot do

- \* Help with non-family law issues eg. civil or criminal
- \* Help if the client already has a lawyer
- \* Become the client's lawyer while acting as FDC
- \* Attend court for trials or contested hearings
- \* Prepare court documents for a client
- \* Assist with complex property disputes
- \* Advise a client regarding Court of Appeal proceedings
- \* Advise a client on non-BC court procedures or forms

# Where is FDC?

- \* At most Provincial Court locations on family list days
- \* At larger locations, also available for advice on some non-list days
- \* Full-time lead lawyers in Kelowna, New Westminister, Surrey, Vancouver and Victoria
- \* Part-time lead lawyers in Fraser Valley, Kamloops, Nanaimo, Port Coquitlam and Prince George
- \* For certain locations interpreters can be provided for office appointments if pre-arranged
- \* Check LSS website for locations and hours

# Preparing for your Appointment

- \* Bring all your court documents with you
- \* Bring a pen and paper for taking notes (most FDC locations do not provide written advice)
- \* Be prepared to provide the lawyer with the relevant facts (the 5 W's: Who? What? When? Where? Why?)

# Expanded Family Duty Counsel (EXP FDC)

Available at the Victoria Justice Access Centre

- \* Clients receive up to **6 hours** of service
- \* Operated by a team of two lead lawyers, two administrative assistants, plus a roster of family duty counsel lawyers
- \* Client files are maintained to allow for continuity of service
- \* Clients can book follow-up appointments with the same lawyer
- \* Provides legal coaching to help people who are self-representing

# Expanded Family LawLINE

## Available province-wide

- \* Lawyers located around the province give information, advice, and assistance on family law and child protection matters
- \* Operated by a lead lawyer, administrative assistants, and a roster of lawyers located around the province
- \* Hours of service for telephone advice are expanded
  - Mon, Tues, Thurs, Fri           9:00 am – 3:00 pm
  - Wed                                   9:00 am – 2:30 pm
- \* Additional hours for appointments
- \* Clients are referred to the service via LSS Intake, Family Justice Counsellors, community agencies, advocates and support workers

# Expanded Family LawLINE continued

- Clients receive up to **6 hours** of telephone advice. The Family LawLINE lawyer will provide the client with a written summary of the advice given by email.
- Administrative assistant maintains digital client files and records, sets appointments, etc.
- Digital client files are maintained to allow for continuity of service by a roster of lawyers located throughout the province
- Lawyers advise and support clients who have court or non-court matters and are not able to access Family Duty Counsel lawyers in person, but cannot assist clients who are in custody.

# Expanded Family LawLINE continued

- \* Lawyers advise and support Family Justice mediation clients
- \* Referrals to other services, including online resources and other public agencies
- \* Legal coaching to help people who are self-representing
- \* Interpreters available if needed
- \* First-time Family LawLINE clients call 604-408-2172 or toll-free 1-866-577-2525
- \* Returning clients need to schedule a telephone appointment for up to 45 minutes per session

Questions?

# Parents Legal Centre

Presented October 9, 2019

For Provincial Advocates Conference

Richmond, BC



Legal  
Services  
Society

British Columbia  
[www.legalaid.bc.ca](http://www.legalaid.bc.ca)



# Agenda



## PLC Introduction

1. To understanding PLC model
2. To understand data collection and why it's important
3. To understand the difference between PLCs and tariff services
4. To explore common misconceptions about the PLC

# Facts and Figures:



- Indigenous people make up 6% of BC's population
- About 63% of children in care are of Indigenous ancestry
- 41% of LSS's child protection clients self-identify as Indigenous (31 % of criminal law clients, 21% family law clients)

## What are PLCs?



Goal is to assist with child protection matters early and collaboratively. The service provides representation and wrap-around support to parents, or people standing in the place of parents, who experience involvement with the Ministry of Child and Family Development or a delegated Aboriginal agency.

Operating in Vancouver since February 2015 with funding from the Ministry of the Attorney General. Original funding was for a group of 5 Justice Innovation and Transformation Initiatives (JITI), made possible with Ministry funding of \$2M/yr for 3 years.

# How is the PLC different?



## *Usual legal aid representation in child protection:*

- Lawyers in private practice contracted by LSS
- The child has been removed or MCFD/DAA is asking for a supervision order
- The court process is involved
- The lawyer is able to assist with collateral issues which are related but is not provided the assistance of an advocate

# Rationale for the PLC



To engage with parents and provide services and advocacy prior to and during their involvement with MCFD or DAA

To take a holistic approach assisting parents to address issues underlying child protection concerns while also addressing the legal matter

To provide support before a matter escalates, and attempt to achieve a solution that keeps a family together and addresses the child protection concerns

# What does the PLC offer?



*Parent supported  
early by a Team*

Represents the parent at mediations, Family Case Conferences, other collaborative meetings and uncontested hearings

The advocate helps parents connect with services

- e.g. housing; addictions recovery; counselling

If not yet a PLC client, lawyer can provide advice (like duty counsel)

Service is also provided off-site to women who are at risk of child being removed or has been removed, e.g., Fir Square, Sheway

# PLC Model



*Parent supported  
early by a Team*

The PLC model includes

- Lawyer(s)
- Aboriginal Child and Family Advocate
- Administrative/Intake assistant

# PLC Statistics

Since opening the Vancouver office, we have opened 1, 746 client files.

## Our referrals come from:

- 20% Social Workers (MCFD or DAA)
- 11% other Support Agencies
- 20% from the courts



## Our clients:

- 45% self-identify as Aboriginal
- 54% have no removal when they became a client
- More than 1 in 5 clients participate in collaborative processes

# Why Collect Data?



- Ministry requirement
- Data was carefully selected by a Working Group
- Basis for program was to find early resolution to child protection matters, potentially keeping people of court
- To do so, the focus had to be on collaborative planning and decision-making

## Why Collect Data?

- The data collected formed part of the 3 evaluations completed at:
  - 3, 12, and 24 months
- Given the positive results, the Ministry committed to further funding



Office now open in:

- Campbell River, Duncan, Victoria, Vancouver, Surrey, Kamloops, Williams Lake, Prince George, Terrace, and Smithers/Hazelton

# PLC Charter

- increase early access to information and advice about rights and obligations for parents
- involved in CFCSA matters
- increase early referrals
- achieve earlier and more sustainable collaborative resolutions in child protection cases
- reach a collaborative resolution in more child protection cases
- facilitate more productive court appearances
- reduce the number of court appearances
- reduce the amount of court time required for list days
- decrease the number of trials in CFCSA cases
- provide services that are culturally appropriate to the community served



# Evaluations

A 3<sup>rd</sup> party conducted the PLC evaluation, including interviews with:

- § Clients
- § Social workers, team leads
- § Collaborative process stakeholders (mediators and facilitators)
- § PLC staff



# Final Evaluation Findings - Summary



*“PLC model continues to work well to provide the expected services. Other stakeholders appear to have gained a good understanding of the model and are supportive of the PLC.*”

*Much of the success of the model is attributed to the types of positions that support it (lawyers, an advocate/paralegal, and an administrator), which, combined with the knowledge and experience of the staff members in these positions, allows for an effective and efficient distribution of responsibilities.”*

# Final Evaluation Findings – Referrals from Stakeholders



*“Awareness of the PLC appears to continue to grow, with most stakeholders involved in the child protection process believed to be aware of the PLC, and many of them making referrals to the PLC. The PLC has just recently begun undertaking more outreach activities to further increase awareness amongst other organizations that might support or interact with families experiencing child protection issues.”*

# Final Evaluation Findings – Referrals from Stakeholders and Outreach



*“Several external key informants also commented that it is helpful to have a specific location to refer parents to, and that it is more likely parents will follow up on the referral rather than just being told to talk to a lawyer.”*

*In addition to the fact that clients were generally pleased with the location of the PLC within the courthouse and its accessibility to transit, “[t]he PLC’s outreach to Fir Square and Sheway, as well as the staff members’ flexibility to meet clients or attend meetings offsite further contributes to their accessibility. Clients find the PLC accessible and have a high comfort level in using the services.”*

# Final Evaluation Findings – Client Comments

*They are friendly, straightforward and trustable.*

*They are not judgemental. I never felt judged by them and they tried to understand us and help us.*

*It is very comfortable and useful; the staff are reasonable and understanding.*

*The lawyer and staff were very informative and supportive. I never felt judged.*

*[The lawyer] was open about my rights and would call me out when I did things wrong.*

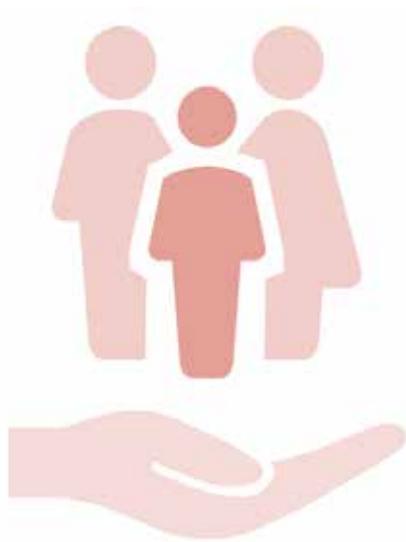
*If one lawyer was not available the other would be....both knew my case.*

*They were thorough and friendly.*

*[The staff member] was always available to come to meetings and respond to my calls.*

*I needed someone to tell me about my rights. They were nice to me and made me feel comfortable. I did not feel nervous at all.*

# Final Evaluation Findings – Cultural Competency



*“Internal key informants commented that all staff are aware of and keep in mind the impact of the residential school system on their Indigenous clients, and also that their staff complement are culturally diverse, which is believed to add to clients’ comfort level. External key informants who could comment on culturally-appropriate services primarily made observations that having an Indigenous lawyer was helpful for building trust and comfort for Indigenous clients.”*

## Final Evaluation Findings – Early Referrals



*“Most key informants believe that clients are accessing the PLC early enough in their child protection matter, although stakeholders have varying views on what is “early,” with some saying that it should be as early as possible, such as when they first learn of their child protection matter, and others saying not until it is clear that there will be court involvement. Most clients interviewed believed that they had contacted the PLC early enough, although approximately half also said that it would have been helpful to receive their help earlier.”*

# Final Evaluation Findings – Importance of Early Referrals



*Social worker commented, in summary:*

*- many parents do not understand the powers and duties provided to social workers through the CFCSA and may refuse to allow social workers to question their child in private. Parents may then be perceived as uncooperative and as “trying to hide” something, which can cause an escalation of the situation. Key informants observed that parents may be more willing to listen to the explanations and advice of their lawyer than from a social worker.*

*- if the matter does escalate to court involvement, the parent has already established a relationship with the PLC.*

## Key findings of evaluations:



### *Clients engaging with PLC team early*

Clients have a fuller understanding of their rights and obligations early:

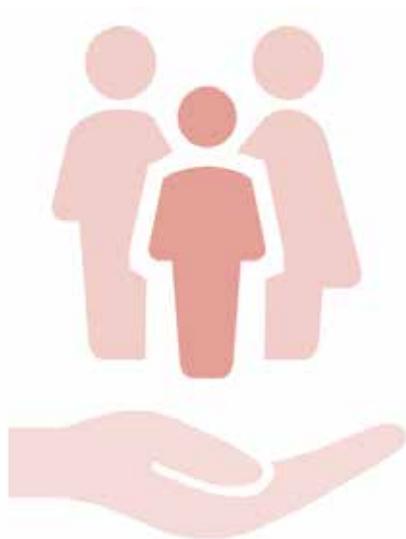
- Before problems escalate
- Views less likely to become entrenched
- Reduce risk of communication breakdown between parent and social worker

Clients have greater understanding MCFD or DAA expectations and what they can do to meet them

Engaging with clients in community means:

- early advice and support
- reducing anxiety and
- avoids separating children from families

# Final Evaluation Findings



*“The PLC does appear to be resulting in more parents with CFCSA matters taking part in collaborative processes and, in particular, FCPCs and informal collaborative meetings. A helpful feature of the PLC is the advocate/paralegal who can attend those meetings that do not require lawyers, providing support to parents and further facilitating the PLC’s participation. Clients supported by the PLC at collaborative meetings found the support and advocacy helpful.”*

## Key findings of evaluations:



*The PLC helps clients engage collaboratively to resolve child protection concerns*

- More parents engaged in collaborative processes
- PLC achieves positive results that move matters forward even though child protection issues are lengthy and difficult to achieve “resolution”

*The PLC enhances the ability for all service providers to work cooperatively and more effectively to support parents and families*

## Final Evaluation Findings – Advocate’s Role

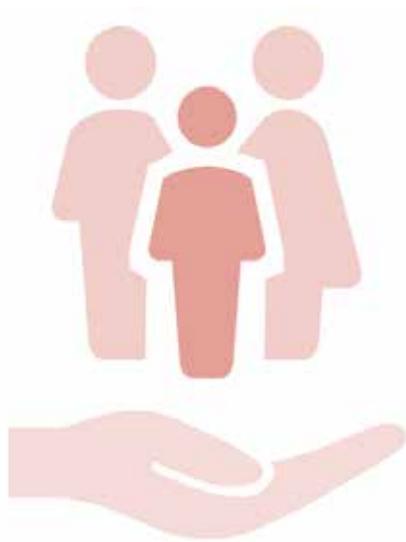
*Recognition of the role and value of the advocacy services provided by the PLC appears to have increased from the summative evaluation. There appears to be a greater understanding of and support for the advocating role of the advocate/paralegal position, and belief that this position further complements how the lawyers advocate for clients.*

*About the Advocate:*

*“A lot of it was in a legal jargon that I did not understand. They explained what was being said and acted as my voice. We’d talk about it before the meetings and plan what we wanted to do beforehand.”*

*“She was able to take notes on everything said, so the lawyer could understand what happened during the meetings.”*

# Final Evaluation Findings – Collaborative Process



*Greater recognition of the PLC's contribution to these successes.*

*Although a client's CFCSA matter may not be completely "resolved" through such processes, they are perceived as valuable for achieving some type of positive result that moves the matter forward.*

*The PLC's approach to encouraging collaborative processes, as well as their willingness to cooperate and communicate with other stakeholders (social workers and director's counsel), is perceived as contributing to an overall more collaborative approach to the benefit of children and families.*

## Key findings of evaluations:



*PLC Clients have fewer and more effective court appearances*

- Immediate access of the PLC in court reduces adjournments required to find a lawyer
- PLC clients come to court with direction and there are fewer adjournments

# Myths and Facts



Incorrect information about PLC has circulated since the program started

Support from stakeholders since the beginning (Ministry counsel, social workers, mediators, collaborative practice facilitators)

LSS has offered information sessions for about the PLC, and on-going efforts are made to do outreach

# Myths and Facts - Examples



- Clients are forced to agree with the social worker
  - Can't force clients to agree to anything (treatment, counselling, court applications)
  - There are mechanisms to oppose the social worker's court application
- PLC doesn't fight as hard as a tariff lawyer
  - Always put the client's best interests forward and take client's instructions
  - Professional ethics require lawyers to serve the cause of justice and be faithful to clients

# Myths and Facts - Examples



- “Collaborative practice” means agreeing with the Ministry
  - No, it means coming together to give the client a platform to be heard and understood
- PLC has too many clients to provide highly quality services
  - Team approach means client has easier access to any one of the PLC staff
  - Clients consistently reported satisfaction with PLC services
  - Capacity to expand

# How is the PLC different?



*Designed to be culturally sensitive and easily accessible to the clients served*

## *In the PLC:*

- The lawyers and the advocate work with and on behalf of parents to focus on early collaborative solutions
- Early intervention - often before the children are even taken into government care, or prior to birth of the child
- Advocate can:
  - help parents connect with services to address the underlying child protection concerns, e.g., housing; addictions recovery; counselling
  - speak with social workers on parents' behalf
  - accompany client to various meetings and appointments, including with social worker

## Model Walk Through – Role of Lawyer



- § Has conduct of the file once the client has signed the retainer letter
  - § Gives legal advice to client
  - § At any time
- § In community at clinics
- § Represents clients
  - § On court list days (for both accepted clients and Family Duty Counsel clients)
  - § At collaborative processes
- § Works with ACLW/Advocate to identify client's needs, develops plan to address the CP concerns
- § Designs and carries out outreach in the community (MCFD, DAA, support agencies, hospitals, etc.)
- § Instructs Administrative Assistant/ACLW/Advocate about file activity

## **Model Walk Through – Role of ACLW/ Advocate**



- § Supports clients in CP issues
  - § To help the client meet SW expectations
- § To support client towards:
  - § Physical/mental wellness (if identified as a CP concern)
  - § Attending treatment or counselling (if identified as a CP concern)
  - § Developing health relationships with children and others (e.g., access, discussing family support)
  - § Committing to attending programs and services as needed
- § Extra support to the client and Lawyer

## **Model Walk Through – Role of Advocate with Clients**



- § How the ACLW/Advocate goals are met
  - § attends meetings with client that lawyers not normally permitted to attend
  - § Stays in regular touch with clients, e.g. check-ins, meeting in the community
  - § Updates Lawyer about progress, setbacks, or developments
  - § Maintains knowledge of the resources clients might benefit from
  - § Develops good relationship with the resources to help client feel comfortable with the resource
  - § Communicates with resources with client's written consent

# Who becomes a PLC Client?



*CFCSA cases eligible for PLC assistance include those where:*

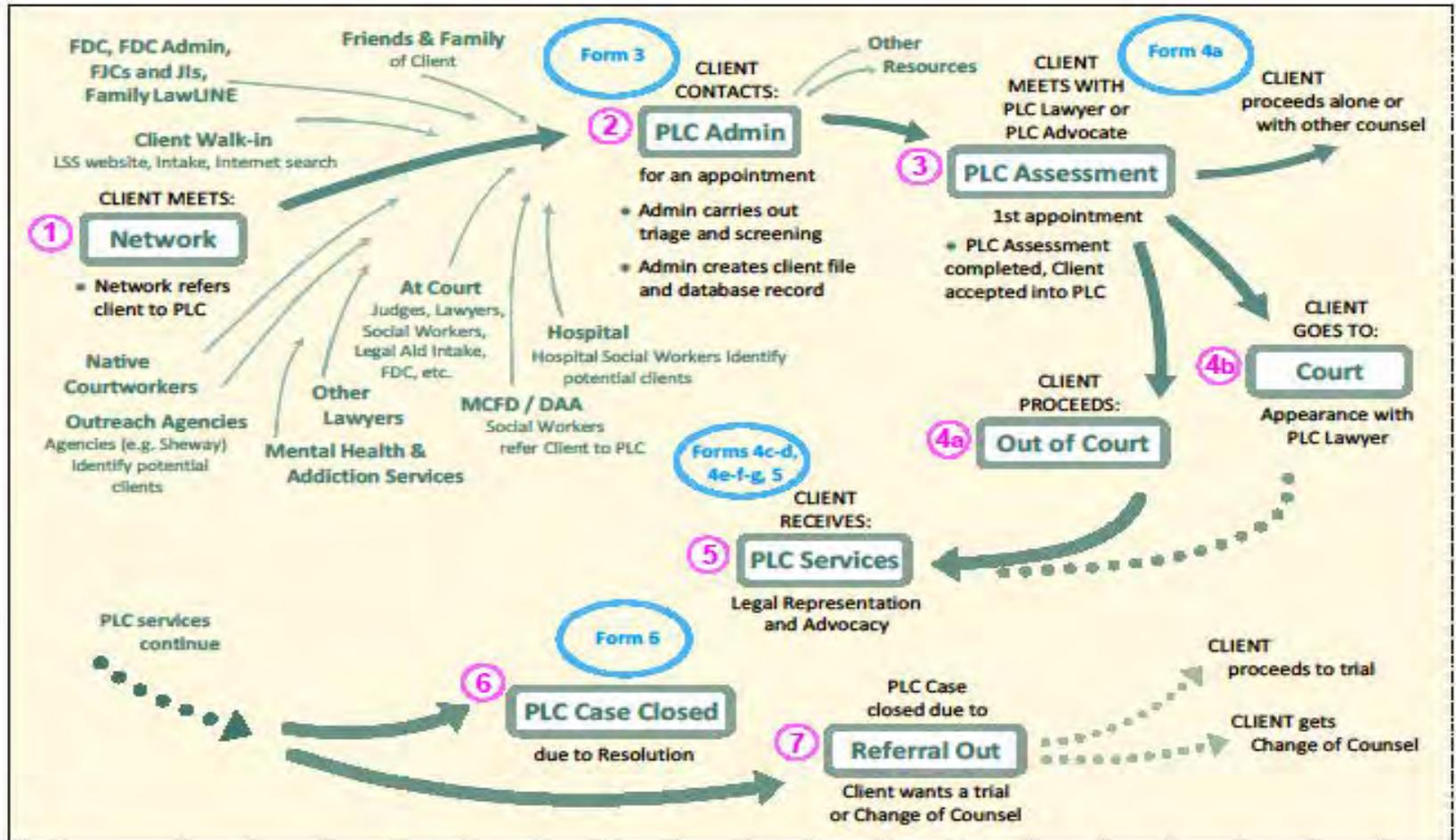
- § the applicant falls within the LSS financial criteria for a representation contract, or is eligible for discretionary coverage from the PLC
- § the applicant is the parent or guardian, or is standing in the place of the parent
- § the case can be resolved without a trial

*Types of CFCSA cases that are not provided assistance by the PLC include those where:*

- § a conflict of interest exists;
- § a tariff lawyer is already assisting the client;
- § the person is not the parent; or
- § the case cannot be resolved without trial.



# PARENTS LEGAL CENTRE CLIENT FLOW PROCESS



**Questions?**



# Virtual Legal Clinic

By Vicky Law



WOMEN'S LEGAL CENTRE

Nothing we say in this presentation should be construed as legal advice. This is simply for information purposes only. Please consult with a lawyer if you need legal advice.

NOT LEGAL ADVICE



# VLC in 2017-2018

- Originally called the “Remote Services Program”
- Rise worked directly with women providing legal advice and support

## Challenges and Barriers

- Difficulties with providing representation through telephone or videoconference
- Women needed wrap-around supports



# Virtual Legal Clinic at Rise

- Rise began partnering with transition houses and other community organizations across the province
- Client will receive legal services through partner agencies
- Legal services provided through video-conferencing software, Zoom



# VLC Lawyers and Areas of Law

- Legal services are currently provided by pro bono lawyers in:
  - Criminal
    - Either the accused or the complainant side
  - Family
    - Anything under the *FLA* or *Divorce Act*
  - Immigration
- No child protection lawyers but Rise can assist with *J.G.* applications



# Virtual Legal Clinic at Rise

- Legal services can include:
  - Summary legal advice
  - Limited document drafting and/or review
  - Limited legal research and/or opinion
  - Legal coaching
- Virtual Legal Clinic cannot provide:
  - Legal representation in court as many lawyers volunteering reside in Vancouver
  - Extended legal services due to lawyer's availability



# VLC Financial Eligibility

Household Size	LICO	200%
1 person	\$21,481	\$42,962
2 persons	\$26,143	\$52,286
3 persons	\$32,554	\$65,108
4 persons	\$40,614	\$81,228
5 persons	\$46,247	\$92,494
6 persons	\$51,289	\$102,578
7 or more persons	\$56,331	\$112,662

NOT LEGAL ADVICE



# VLC Financial Eligibility

- We consider
  - client's employment income or self-employment income
  - child and spousal support received
- Allowable deductions from income include
  - childcare costs incurred,
  - child or spousal support paid, and
  - medical expenses.
- If client has liquidated assets in excess of **\$30,000**, they are not eligible (excluding RESPs) \* \*



# Techn Requirements for Partner Agencies

- Computer with:
  - 2 GB or more of RAM
  - Webcam
  - Internet connection: 2.0Mbps or better
  - Operating system:
    - Mac OS X with Mac OS 10.9 and higher, or
    - Windows 7 and higher
- Microphone and speakers / headsets
- Mid-sized to large monitor
- Ability and authorization to download Zoom



# Service Requirements for Partner Agencies

- Appointment held in a private and quiet location
- Worker(s) from organization must attend video conference meeting with Rise to discuss Zoom platform and potential risks of using technology
- Provide information about VLC to women accessing services
- Ensure staff is trained in order to:
  - Identify women who are suitable for service
  - Review relevant information and forms with women
  - Confirm appointment times and details with Rise
  - Set up videoconference software for appointments



THANK YOU!

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Lawyer

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WOMEN'S LEGAL CENTRE

NOT LEGAL ADVICE

# Strategies for Working Effectively with Lawyers and Judges

Judge Kathryn J. Ferriss  
Provincial Court of BC, Surrey

Whether your client is meeting with a lawyer or at court, he or she is in a self-defensive mode resulting in a fight or flight reaction.



# Symptoms of Fight or Flight Reaction

- The three reactions to stress are fight, flight and surrender.
- One person may cry when confronted with this type of stress and another may become agitated.
- Society often sees crying as more socially acceptable than yelling, but it is a reaction to the same stressors. Sometimes it is a personality trait, but often it is not. But it may be seen in a negative light at court.

# Symptoms of Fight or Flight Reaction

- Fight or Flight Reaction occurs when we feel we must defend ourselves. It is caused by a release of hormones.
- Your client may be in a self-defensive mode when asked to share personal information and documents that he or she feels may be used by the court or the other party to reject or ridicule.
- Your client may try to avoid deadlines as part of their “flight” reaction or simply capitulate on an important issue.

## Working with a Lawyer



# How to Help the Lawyer and Your Client

- If your client is meeting with Family Duty Counsel or calling Family LawLINE, they know that they will not have a lawyer to assist them at a trial and they are stressed.
- If possible attend meetings with the lawyer and your client so you know what is going on. The client may not be very helpful.
- Your client will have no recollection of what they were told to do by the lawyer during the meeting unless it is written down.
- Set up time frames to have documents or other information provided by your client.
- Help your client to write out a summary of the facts relevant to his or her case to give the lawyer.

# Tips for Dealing with a Lawyer on the Other Side

- Explain who you are and what you do.
- Find out if there is a court date set.
- If the client will need more time, see if the other side will agree to change the court date. If so, confirm in writing.
- Even if the lawyer refuses to agree to an adjournment, put that in writing as your client may need to show the Judge that he or she tried.
- The lawyer on the other side may be reluctant to communicate with you and you may have to do it through your client.

Working with a Judge



# The Judges

The title is actually a misnomer. There are no opportunities to “work” with a judge as our job is to be seen to be objective and fair to all litigants. It is seldom a group effort.

I will explain who we are and what we do instead

# The Judges – Who are they?

- The Judges in Supreme Court and Provincial Court come from many areas of practice, usually not family law
- All Judges in every court will hear a variety of cases.
- There are no longer any specialized Judges in Provincial Court in family or civil law. There are specialized criminal courts, such as Drug Court and Community Court.
- There have been attempts at the Supreme Court level to have a specialized family bench, but as far as I know, it has been difficult to manage.

# The Judges – Who are they?

- In Surrey Provincial Court, the majority come from a criminal law background.
- There are about a quarter to a third of us that have a family law background.
- There are also some who have a civil law background or who were solicitors.
- The courthouses are divided into regions and, for example, a Judge from Surrey may sit in Abbotsford or Chilliwack fairly often. We are also moved to other courthouses in the Province as required.

# The Judges – Assignment of Files

- Provincial Court Scheduling System started in about 2013 in larger court locations.
- Smaller court locations like Williams Lake or Sechelt still use the old method of trial assignment, which means a judge may know ahead of time what type of file they are getting.
- Trials scheduled for a ½ day or less are put into the same courtroom and the Judge may hear civil, family and criminal matters on the same day.

# The Judges – Assignment of Files

- For trial scheduled for more than a half day, no one will know which Judge will hear the matter until between 9 am and 9:30 am that morning.
- The Judge will get an email telling him or her what the name of the case is and that is the first time the Judge will know what area of law it is in.
- The Judge will then be given the file and have about 15 minutes to review the orders and the outstanding issues.

# The Judges – Supernatural Powers?

Self-represented litigants and members of the public sometimes presume that the Judge:

- Knows what the issues are that they are hoping to resolve without being told,
- Always knows the law that is applicable to this particular case,
- Has access to their tax returns through CRA,
- Can telephone their witnesses to confirm their story,
- Has only their case to worry about,
- Can make any orders he or she wants, and
- Has already been briefed about their case.

# How to Help the Judge

Explain to your client that:

- While all of the Judges do want to understand their matter, they may be newly appointed or not as familiar with family law,
- The Judge may only have read your file a few minutes before trial,
- The Judge has no access to government records and are not allowed to search through public records, and
- The Judge can only hear evidence in person, so if there are witnesses relevant to your client's case, they must attend court, either voluntarily or through a subpoena.

# How to Help the Judge

- Judges must follow the *Family Law Act*, the *Provincial Court (Family) Rules* and case law in making a decision and it is helpful if the litigants know the relevant sections of the *FLA* they are relying on.
- Case Law can be found at [Canlii.org](http://Canlii.org) or in the annotated CLE family book
- Case Law from another province may be helpful, but a B.C. case is better.

# Documents

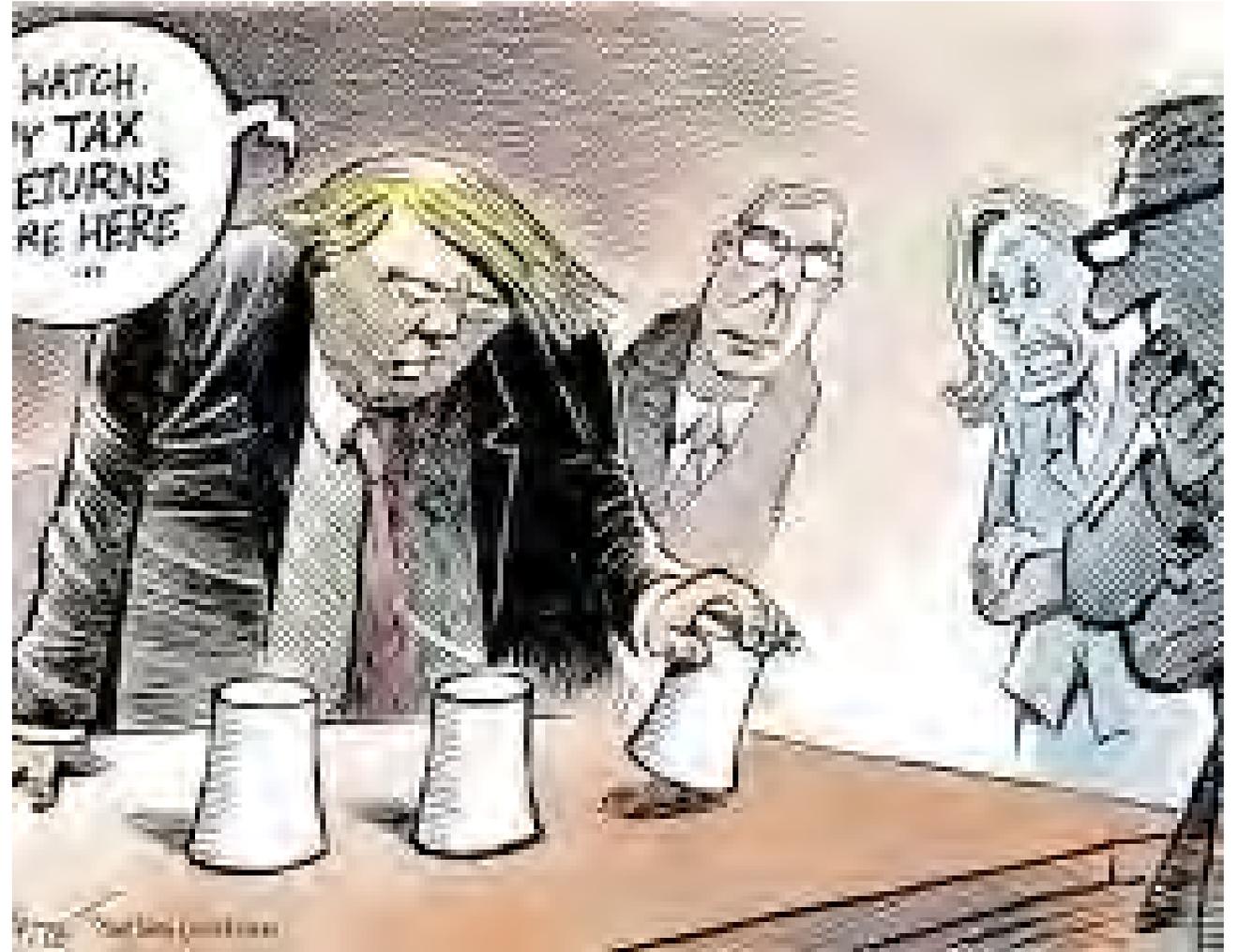
- If your client has documents that he or she wants the Judge to consider, the client must give a copy of the documents to the other side before the trial and bring two copies to court.
- For the Judge to consider a document, your client must identify the document through personal knowledge. If he or she does not have personal knowledge of the document, then he must bring a witness to identify the document and explain what it is intended to prove, unless the other party agrees that it can be entered as an Exhibit or there is some exception to the rule.
- Once it is identified and determined relevant, it will be entered as an Exhibit and form part of the evidence.

# Documents

- All documents, including Financial Statements should have their pages numbered for easy reference by the Judge and other party.
- If there are a number of documents, they can be put into a binder and presented to the Judge and the other party. Tabs are always welcome.

It is important for your client to attach all applicable documents to the Financial Statement that are set out on page 2 of the Provincial Court Form 4 or the Supreme Court Form 8.

Don't forget proof of the current year's income.



# Documents – Financial Statements

If your client has not filed his income tax returns for the past three years:

- Copies of filed T-4s and other tax documents are generally available through CRA.
- There are sometimes volunteers who will help prepare income tax returns with some restrictions.
- Even if you only have a working copy of the client's T-1 General with a copy of the attached T-4s or other income slips, you can usually attach those to the Financial Statement with a letter from CRA indicating they have not been filed yet.

# Documents – Special and Extraordinary Expenses

If the client is applying for special and extraordinary expenses under s. 7 of the Federal Child Support Guidelines, they will need copies of the invoices or bills for those expenses.

# How to Help for Proceedings at Court

First Appearances

# First Appearances

- First Appearance is a defined term under the *Family Law Act*
- It is set by the Registry once the applicant has filed proof of service or a Reply has been filed. The applicant must also file a Certificate indicating the party has attended Parenting After Separation and, if they are in Surrey, Vancouver, Kelowna or Nanaimo, a Referral Request Form

# First Appearances

- Often the lists are capped at 25 or so matters per half day, so each matter is expected to take only 6 minutes or so.
- The *Provincial Court (Family) Rules* permits a Judge to make interim orders, set a Family Case Conference, set a hearing for an interim order or a final order, among other things.
- Unless there is real urgency, it is unlikely the presiding judge will hear evidence and make a decision at the First Appearance.
- A consent order may be made and Family Duty Counsel is generally available to help your client.

# First Appearances

- It would be helpful if the self-represented litigants understood what the First Appearance is for as it would reduce their stress. Sometimes they arrive expecting a hearing of some type, when there will not be time.
- If they cannot appear at a First Appearance, then they can make an application to appear by telephone or they can send an agent.

# Family Case Conferences

# Case Conference - Where there are safety issues for your client:

Where there are safety issues for your client:

- The Court does not screen for Family Violence and there may be no indication in the file
- It may not be appropriate to have a case conference in a conference room. It may need to be done in a courtroom with a sheriff.
- Even if it is in a conference room, your client can explain to the registry that he or she would like a sheriff present.

# Case Conferences - Rules

- The case conference judge is unlikely to be the trial judge unless it is in a small courthouse.
- The purpose of the case conference is to narrow the issues for trial and perhaps settle the matter on an interim or final basis.
- No offers or admissions made in the conference are to be made known to the trial judge, unless the conference results in an agreement.
- The parties are to be respectful to each other and listen to each other. The Judge will try to give them equal time.

# Case Conferences - Rules

- The Judge will not likely make any order unless it is by consent or it is a procedural order.
- If there is no settlement by a certain time, the Judge may move onto trial preparation.

# Case Conference

Help your Client and the Judge through the Case Conference by:

- Checking to see if they can have Family Duty Counsel attend with them.
- Make a plan as to the various outcomes. What does the client really want? What would they settle for? What would they go to trial over?
- Make sure they have obtained legal advice in working out their plan.

Trials

# Responsibilities of the Judge

The Canadian Judicial Council: Statement of Principles on Self-represented Litigants and Accused Persons sets out these responsibilities:

- Explain the court procedure and the law in general terms.
- Explain the rules of evidence as required and in general terms.
- Promote a fair and impartial process, which means the Judge cannot act as the self-represented litigant's lawyer.
- A Judge has no obligation to assist a litigant who is “disrespectful, frivolous, unreasonable, vexatious, abusive or making no effort to prepare their own case”.

# Responsibilities of the Judge

- The *Family Law Act*, s. 199, says the court is to conduct trials with as little formality and delay as possible.
- The only consideration regarding parenting arrangements is the child's best interests as defined in s. 37 of the *FLA*.

# Helping your Unrepresented Client in a Trial

- A represented litigant has a lawyer asking them questions during examination-in-chief.
- An self-represented litigant does not and may forget what he or she wants to say.
- Consider having your client write out a statement or an outline of the evidence they wish to give at court. The Judge or the other party may ask for a copy of the notes, so make sure they are acceptable.
- Alternatively, an affidavit may be prepared just to help keep your client on track.

# Helping your Unrepresented Client in a Trial

- Make sure the client has seen a lawyer for advice before the trial.
- Make sure the client knows who to call if he or she runs into trouble.
- Your client may have a Support Person sit with them at a trial. See Guidelines for Using a Support Person at Provincial Court:  
<https://www.provincialcourt.bc.ca/downloads/Practice%20Directions/Support%20Person%20Guidelines.pdf>
- In addition to providing support, the Support Person may assist with organizing documents, taking notes and making quiet suggestions. The Support Person may not be a witness or be paid for their services.

# Summary

- My suggestions on how to work with a lawyer and especially the court are likely too extensive to actually carry out by an advocate.
- This is meant to be a high level of information so that you have an idea of the process.
- If you are assisting a self-represented person, make sure you tell them what you can do and what you cannot – *In Writing*.
- It is also important to remember that a Judge has a certain role to play in the judicial system. We must provide a fair trial, which means we cannot be as helpful to a self-representing litigant as I am sure they would like.

Questions?

# **Relocation**

**Provincial Advocates Conference**  
October 9, 2019

**Agnes Huang**  
Saltwater Law

# LEGAL OVERVIEW

- *Divorce Act*

*Gordon v. Goertz*, [1996] 2 S.C.R. 27

No new law from SCC; leave to appeal denied 16 times (eg. *Stav*)

- *Family Law Act*

Section 46 and Division 6 (Part 4)

# *Gordon v. Goertz*

Two part test:

- 1) Threshold requirement of demonstrating a material change of circumstances affecting the child (a change, which materially affects the child, and was unforeseen or not reasonably contemplated at time of previous Order)
- 2) The applicant must establish that the proposed move is in the best interests of the child, given all the relevant circumstances, the child's needs, and the ability of the respective parents to satisfy those needs

# *Gordon v. Goertz*

The law can be summarized as follows:

- a) Parent applying for move must meet the threshold requirement of material change
- b) Fresh inquiry on best interests of child
- c) Evidence of new circumstances
- d) no presumption of legal presumption, although custodial parent's views entitled to great respect

# *Best interests of the child*

Factors the Court should consider:

- a) Existing custody arrangement
- b) Existing access arrangement
- c) Desirability of maximizing contact
- d) View of the child
- e) Reason for moving, only in exceptional case where relevant to that parent's ability to meet the needs of the child
- f) Disruption to child of change in custody
- g) Disruption to child consequent on removal from family, schools and community

# FLA - The Goal

The [Relocation] Division's goal is to introduce some **certainty** to this area of law by mandating **notice** of a proposed move, defining what constitutes **relocation** and directing courts about both circumstances that **should be considered** and those that **should not**.

The introduction of certainty will reduce the need for lengthy litigation and, thus, reduce the costs associated with disputes over relocation.

*Ministry of Justice, The Family Law Act Explained*

“For good reason, the prospect of a relocation application invokes something akin to dread in some members of the court. Almost inevitably, someone’s heart is broken no matter what the outcome. ...”

Master Keighley, *L.L.J. v. E.J.*  
2013 BCSC 1233, para. 18 (July 11)

# What law applies?

Depends...

- a) Are the parties married?
  
- a) Is the proceeding in the Supreme Court or the Provincial Court?

# ***Divorce Act v. FLA***

Can parties choose?

- NOFC seeking relocation under *FLA*; neither party relied on the *Divorce Act*.
- Court did not need to decide the paramountcy issue and undertook analysis solely under the *FLA*.

Justice Jenkins, *M.M. v. C.J.*

2014 BCSC 6 (Jan 6)

# Paramountcy

“In my view the relocation provisions of the FLA are inconsistent with the *Divorce Act*, and it is therefore appropriate to analyze the issue of relocation (mobility) under the *Divorce Act* and not the *FLA*. ... In my view the *FLA* may well require the court to weigh relevant factors in a different manner than it would under the *Divorce Act*.”

Justice Verhoeven, *T.K. v. R.J.H.A.*  
2013 BCSC 2112, para. 39 (Nov 21)

# FLA - Guardianship is Key

- Section 40: only guardians may have parental responsibilities
- Section 41: parental responsibilities includes decisions about where a child resides or with whom the child lives or associates
- Section 69: only guardians have the right to challenge a relocation

# Changing a Child's Residence

section 46(1)

Applies if:

- No written agreement or Order respecting parenting arrangements;
- Application is made for an Order (under s. 45);  
and
- A guardian plans to change the child's residence and that change can reasonably be expected to have a significant impact on that child's relationship with another guardian.

# Informal Parenting Arrangements

section 48

Applies if

- No agreement or Order respecting parenting arrangements; and
- Guardians have had an informal parenting arrangement in place for a period of time, establishing a **normal routine** for the child.

Guardian must not change the informal parenting arrangements without consultation with the other guardians, unless consultation would be unreasonable or inappropriate in the circumstances.

# Notice of Application

section 52

Notice of the application must be given to:

- each parent or guardian of the child affected by the application;
- each adult person with whom the child usually lives and who generally has care of the child; and
- any other person to whom the court considers it appropriate to serve with notice.

The exception is if there are CFCSA (child protection) Orders

The Court can grant an exemption from the notice requirement if the Court considers it appropriate.

# Yes or No to Change of Residence

section 46(2)

Determined along with parental arrangements (parenting responsibilities and parenting time) and contact.

Factors:

- Best interests of the child: s. 37(2);
- Reasons for the change in location of the child's residence; and
- *Must not* consider whether the moving guardian would do so without the child (the improper double-bind question).

# Part 4, Division 6 – Relocation

sections 65 to 71

Applies if:

- Written agreement or Order respecting parenting arrangements or contact; and
- Guardian plans to relocate himself or herself or the child, or both.

section 65(2)

*L.J.R. v. S.W.R.*, 2013 BCSC 1344 (Betton J.)

*S.J.R. v. R.M.N.*, 2013 BCSC 1812 (Punnet J.)

*A.J.D. v. E.A.E.*, 2013 BCSC 2160 (Harris J.)

# Definition of Relocation

section 65(1)

“**Relocation**” means a change in the location of the residence of a child or child's guardian that can reasonably be expected to have a **significant impact** on the child's relationship with

- a guardian, or
- one or more **other persons** having a **significant role** in the child's life.

# Significant Impact

- Change of residence within a metropolitan centre (i.e. the Lower Mainland) does not qualify as a “relocation”.

Master MacNaughton, *Berry v. Berry*  
2013 BCSC 1095 (June 21)

*What moves would result in significant impact triggering Division 6?*

# Notice of Relocation

section 66

Requirements:

- To all other guardians and persons having contact with the child;
- At least 60 days in advance; and
- In writing, with the date of the relocation and the name of the proposed location.

Court can grant exemption if

- Notice cannot be given without incurring a risk of family violence;  
or
- No ongoing relationship between the child and other guardian or contact person.

Application for exemption can be brought *ex parte*.

# Resolving Relocation Issues

section 67

After notice is given:

- Guardians and contact persons must use **best efforts** to cooperate in resolving any issues relating to the proposed relocation.

However, nothing prohibits:

- A guardian from bringing an application for an Order respecting relocation (under s. 69); or
- A person with contact from bringing a application for an Order respecting contact (under ss. 59 or 60).

# Objecting to Relocation

section 68

If the other guardian objects to the relocation of a child, that guardian must

- File an application for an Order to prohibit the relocation (under s. 69),
- Within 30 days after receiving notice of the plan to relocate the child.

## **Kicker:**

If the other guardian does not initiate an application in Court objecting to the relocation within 30 days of being given notice, then the relocation may occur on or after the date stated in the written notice.

# Orders Respecting Relocation

section 69

Court can make an Order permitting or prohibiting the relocation.

Test:

- Best interest of the child: s. 37(2);
- Good faith; and
- Reasonable and workable arrangements to preserve the relationship between the child and the other guardians, persons entitled to contact, and other persons who have a significant role in the child's life.

Onus depends on whether or not there is **substantially equal** parenting time.

# Reasonable and Workable Arrangements

- Father had not proposed reasonable and workable arrangements to preserve relationship between mother and son (8 year old).
- This did not defeat relocation application; rather Court imposed such arrangements.

*M.N. v. C.J.*, 2014 BCSC 6 (Jenkins J.)

# Not Substantially Equal Parenting Time

section 69(4)

Relocating guardian must satisfy the Court that

- The proposed relocation is made in good faith; and
- She/he has proposed reasonable and workable arrangements to preserve the relationships.

If Court is satisfied of the above, then relocation **must** be considered to be in the best interest of the child unless other guardian satisfies the Court otherwise.

*Onus is on the other guardian.*

# Substantially Equal Parenting Time

section 69(5)

Relocating guardian must satisfy the Court that

- The proposed relocation is made in good faith;
- She/he has proposed reasonable and workable arrangements to preserve the relationships; and
- The relocation is in the best interests of the child.

*Onus is on the relocating guardian.*

# Substantially Equal Parenting Time

- Each guardian exercised equal parenting time from separation to February 2013; then mother had five of 14 days. Jenkins J. found this was “a significant amount of parenting time” and held that each parent has substantially equal parenting time.

*M.M. v. C.J.*, 2014 BCSC 6 (Jenkins J.)

# Factor *Not* to be Considered

section 69(7)

The Court *must not* consider whether a guardian would still relocate if the child's relocation were not permitted (the improper double-bind question).

# Four Possible Scenarios

- Relocation allowed; other parent stays
- Relocation allowed; other parent moves
- Relocation denied; moving parent moves
- Relocation denied; moving parent stays

*J.P. v. J.B.*, 2013 BCPC 0168 (Judge Merrick)

*H.N.M. v. S.C.J.K.*, 2014 BCSC 231 (Rogers J.)

# Other Orders

section 70

If the relocation is permitted, the Court can make other orders

- allocating parenting arrangements between the guardians; and
- if necessary, requiring the relocating guardian to post security in any form the Court directs, or transfer specific property to a trustee.

In making such an Order, the Court **must seek to preserve**, to a reasonable extent, parenting arrangements under the original agreement of Order.

**BUT**, if the relocation is not permitted, that does not constitute a change of circumstance for the purpose of applying to vary the parenting arrangements: s. 71.

# Good Faith

section 69(6)

In determining “good faith”, the Court must consider all of the relevant factors, including:

- The reasons for the proposed relocation;
- Whether the proposed relocation is likely to enhance the general quality of the child’s life and of the relocating guardian’s life, including increasing emotional well-being or financial or educational opportunities;
- Whether proper notice was given; and
- If there are any restrictions on relocation in the written agreement or Order

# Best Interests of the Child Factors

- Sections 37(2) and 37(3) of the *FLA*
- *Gordon v. Goertz*
- *One v. One*
- *Stav v. Stav*

# Best Interests of the Child

section 37(2)

To determine the “best interests of a child”, the Court must consider all of the child’s needs and circumstances, including the following:

- (a) the child's health and emotional well-being;
- (b) the child's views, unless it would be inappropriate to consider them;
- (c) the nature and strength of the relationships between the child and significant persons in the child's life;
- (d) the history of the child's care;
- (e) the child's need for stability, given the child's age and stage of development;
- (f) the ability of each person who is a guardian or seeks guardianship of the child, or who has or seeks parental responsibilities, parenting time or contact with the child, to exercise his or her responsibilities;

# Best Interests of the Child

## section 37(2)

- (g) the impact of any family violence on the child's safety, security or well-being, whether the family violence is directed toward the child or another family member;
- (h) whether the actions of a person responsible for family violence indicate that the person may be impaired in his or her ability to care for the child and meet the child's needs;
- (i) the appropriateness of an arrangement that would require the child's guardians to cooperate on issues affecting the child, including whether requiring cooperation would increase any risks to the safety, security or well-being of the child or other family members;
- (j) any civil or criminal proceeding relevant to the child's safety, security or well-being

# Best Interests of the Child

section 37(3)

An agreement or order is **not** in the best interests of a child unless it protects, to the greatest extent possible, the child's physical, psychological and emotional safety, security and well-being.

# Evidence

- Economic Factors
  - “[child] deserves the opportunity not to live in poverty” (*J.P. v. J.B.*)
  - Mother could work as teacher in Peace Region; parties combined income would be higher than if mother stayed in Kelowna (*H.N.M. v. S.C.J.K.*)
- Health and well-being of guardian

# Uncharted Waters

- Guardian moving without child: section 65(2)
- Best efforts to cooperate in resolving any issues relating to the proposed relocation: section 67(1)
- Preserving, to a reasonable extent, the parenting arrangements in an original order or agreement: section 70(2)

# Must I Stay or Can I Go Now?

- Relocation issues will remain among the most difficult problems for parties, lawyers and Courts to sort through. They are often tough cases.
- There is often no clearcut answer: the Court will still be left with the task/responsibility of weighing compelling and, generally, competing factors, and coming up with what it thinks is in the best interest of the child.
- There will need to be much more thinking about the parenting arrangements/parenting time, if a move is likely to be contemplated at some point.

# Overview of the Child Protection Process for Parents and Advocates

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Parents Legal Centre, Vancouver (Legal Services Society)

# What is Child Protection Law?

- u Area of Law, and administrative activity, that seeks to protect the safety and wellbeing of children
- u To simplify, it is the “Director” vs. parents
  - u “Director” is typically the Ministry of Children and Family Development, a.k.a. M.C.F.D, or simply, “the Ministry”
  - u Alternatively, in respect of Indigenous families, “Director” can refer to a Designated Aboriginal Authority (“DAA”). In Vancouver, it is Vancouver Aboriginal Child & Family Services (“VACFSS”)

# What is Child Protection Law? (cont.)

- u As a lawyer or advocate working in child protection law, one is working on behalf of a parent, in order to:
  - u Address and overcome child protection concerns of the Director
  - u Keep the children from being “removed” (i.e. taken out of the home and placed in the temporary care of the Director)
  - u If the child(ren) has or have already been removed, see to it that they are returned to the parent(s) as soon as reasonably possible

# Statutory Overview

- u One Act: The *Child, Family and Community Service Act* (“CFCSA”)
- u Supplemented by the *Child, Family and Community Service Regulation* (“CFCSA Reg.”)
- u Court Procedures in this area are regulated by the *Provincial Court (Child, Family and Community Service Act) Rules* (the “CFCSA Rules”)

# First Contact with the Director

- u Social Workers (employed by the Director):
  - u are the backbone of the Director's work
  - u receive child protection reports from the community and investigate them
  - u Decide, with their team leaders, what should happen next; e.g. removal? Continuing Custody Order?
  - u have tremendous power in the lives of families

# First Contact (cont.)

- u Additional Considerations:
  - u All contact that parents have with the Director is with social workers
  - u Parents can't change social workers by request
  - u Social workers have lawyers

# First Contact (cont.)

- u As such, it is important for a parent:
  - u To be respectful (social workers are people too)
  - u To be open and honest
  - u To be receptive
  - u To remember that one is being assessed as a parent at all times

# First Contact (cont.)

- u Upon receiving a new report of possible harm to children, a social worker will contact the parent for a meeting and/or home visit
- u From this point forward, a parent (who is financially eligible) is able to obtain a lawyer through the Legal Services Society (“LSS”)
- u Social workers have lawyers (and all the power in the relationship)
- u Greater Vancouver: **604-408-2172**  
Elsewhere in BC: **1-866-577-2525**

# Staying out of Court

There are many reasons for a parent to want to stay out of Court; e.g.:

- u Not having to risk losing custody and guardianship of one's children (which can only be lost without consent as part of the Court process)
- u Not having one's name in the public record
- u Not having to appear in Court, which is busy with other citizens on a list day
- u Safety plans and agreements can be desirable alternatives to Court

# Staying out of Court (cont.)

## Safety Plans

- u Simple written statements of what a parent agrees to do or not do:
  - u “Crystal agrees David will not come onto her property when the children are with her. If David comes over, Crystal will call 911”
  - u “Stephanie will not use or possess any illicit drugs within 12 hours before, or during, her care of the children”
- u Signed and dated, and treated as a contract
- u There is a set end date (which can be extended by further Safety Plans)
- u If the parent breaches the safety plan, or withdraws from it, the Director will consider more intrusive measures, such as removal

# Staying out of Court (cont.)

## Voluntary Care Agreements

- u Parent places children in care of the Director temporarily
- u Can be truly “voluntary”, or less voluntary but the best of bad options
- u Agreements must include certain information, including:
  - u How the child will be cared for and where the child(ren) will be placed
  - u Director must inform the parents of the child(ren)’s progress

## Special Needs Agreements

- u Similar to Voluntary Care Agreements; specifically for children with special needs
- u Parent can agree to give care of the child(ren) to the Director and delegate some or all of their authority

# Staying out of Court (cont.)

## Kith and Kin Agreements

- u If a parent is willing to give care of their child(ren) to another person who has a relationship with the child or a cultural or traditional responsibility toward the child
- u The Director can contribute to the support of the child while in the care of that person

# Staying out of Court (cont.)

- u **Advantages of Safety Plans and Agreements**

- u They are not Court
- u They are not public
- u The parent retains guardianship (though not necessarily custody)

- u **Disadvantage of Safety Plans and Agreements**

- u There is no Judicial oversight

# The (Unsatisfactory) Court Process

## If Court is required:

- u The Director Drives the process (think of the Crown in criminal proceedings)
- u **Presentation Hearing**
  - u The Presentation Hearing is the first hearing
  - u The Director can be seeking one of two things:
    - u Interim supervision order, OR
    - u Interim custody order

# The Court Process (cont.)

- u **If it's a supervision order:**
  - u Terms are (somewhat) negotiable
  - u Ultimately a parent will want to agree to avoid a removal
- u **If it's a custody order:**
  - u Agreeing means the Director becomes interim guardian
  - u The parent can usually get an order for access, but it will be supervised
  - u Another court date - the Protection Hearing - is set 45 days away
- u **Isn't it a no-brainer to disagree then? Well...**

# The Court Process (cont.)

## The Presentation Hearing (cont.)

- u If you disagree, there will be no time for a hearing the first day in court
- u You will be given a new hearing date
  - u Often more than 45 days away
- u In the meantime, your child(ren) will be in the care of the Director anyway

# The Court Process (cont.)

## The Presentation Hearing - Once You're Finally There:

- u Is NOT a full trial - it's a summary hearing
- u Generally no opportunity to cross-examine the social worker
- u Any discrepancies in the evidence are resolved in favour of the Director
- u Judge really only needs to decide there are justiciable issues, to grant the Director's application
- u As such, usually the Director gets its interim custody order - which lasts ANOTHER 45 days, until the Protection Hearing commences

# The Court Process

## The Commencement of the Protection Hearing

- u After the 45 days of the Interim Order have passed, there is another Court hearing: The Commencement of the Protection Hearing
- u Generally the Director is seeking 3 or 6 months of additional custody or supervision
- u To do so, the Director has to get a finding from the Court that the children are “in need of protection”
- u A parent now has the opportunity to disagree and get a FULL hearing, with witnesses, cross-examination, etc. - but not right away, and likely not for months
- u If a parent disagrees, a “Rule 2 case conference” is set for another day - generally a few weeks away

# The Court Process (cont.)

## The Rule 2 Case Conference

- u This is a meeting at the Courthouse - with a Judge present
- u However, this is not a hearing - this is not a chance to “win” and get a return
- u At the case conference - judges normally do not make orders unless they are consent orders (by agreement)
- u If the parents agree - the 3- or 6-month order is made
- u If the parents disagree - a trial date is set - **usually several months later**

# The Court Process - Summary

- u The Court Process is unsatisfactory because of how long it takes
- u Children are harmed by foster care
- u What do parents want out of the process? They want their children back as soon as possible
- u That is the goal for lawyers, advocates
- u How do we get there if Court doesn't have the ability to assist quickly enough?

# Collaboration - The Answer

- u Collaboration and cooperation with services is the answer for parents
- u This approach results in substantially quicker returns than anything they can do in Court
- u From the beginning of the process, the parent should be leaving the fight to his or her lawyer
- u The parent's job is to show the Director's initial child protection concerns (if they ever existed) are no longer reasonable concerns

# Collaboration (cont.)

## Services for Parents

- u Tailored for the child protection concerns
  - u E.g. for addiction: counselling; treatment; urine drug screens
  - u Domestic violence: counselling; and ensuring the child(ren) is/are not exposed to domestic violence
  - u Mental Health: seeing a professional regularly; following recommended treatment; possible Parenting Capacity Assessment
  - u Obtaining suitable housing
- u It is therefore important that the parent find out what services are recommended early on

# Collaboration (cont.)

- u Services for Parents (cont.)
- u Services are negotiable (somewhat)
- u Regular attendance, punctuality and participation will be important
- u Progress is being tracked
- u This includes meeting with the Director (social worker)

# Access

- u Parents are nearly always able to see their children who are in care
- u It generally starts as daytime, supervised - a minimum of 2 hours, 2 days a week
- u If the parents are participating in recommended services, access moves to unsupervised, and finally overnights (before a return)
- u Again - regular attendance, punctuality and participation is crucial

# Collaborative Meetings

- u Vancouver is a collaborative jurisdiction
- u Meetings that can be arranged, early and fairly often
- u Advocates are generally welcome - but check first
- u Lawyers are helpful

# Collaborative Meetings (cont.)

- u At collaborative meetings and mediations:
  - u Services can be clarified
  - u Progress can be updated
  - u Access can be increased
  - u Returns can be expedited
- u Ask for meetings early, and try to get follow-up dates afterward
- u Bring available evidence, and bring supports

# Indigenous People

- u Approximately 6% of BC's population is Indigenous, and 60% of children in care are Indigenous
- u Crisis in need of a solution
- u The CFCSA does contain attempts to address the problem

# Indigenous People (cont.)

## As Examples, Under the CFCSA:

- u The First Nations and communities of which the parents are members are notified, have a right to be involved and become parties
- u While in care, Indigenous children are entitled to
  - u learn about and practise their Indigenous traditions, customs and languages, and
  - u belong to their Indigenous communities
- u Ideally, Indigenous people are to be involved in the planning and delivery of services for Indigenous children and families

# Indigenous People (cont.)

- u When an Indigenous child is in care, the Director must give priority to placing the child
  1. with the child's extended family or within the child's Indigenous community; OR if those are not available,
  2. with another Indigenous family.

# Finally...

Thank you for attending and listening.

# Child Protection

# What is the law?

- Children are protected under the *Child, Family and Community Service Act*
- Parents must
  - Keep their children safe
  - Take care of their physical and emotional needs
  - Get them medical care
  - Protect them from abuse
  - Not neglect their children

# What is neglect?

- When a child does not have enough food, clothes or medical care
- A child does not have a safe place to live
- Parents who are too intoxicated by alcohol or drugs to take care of their children
- Children are left alone

# What is abuse?

- Physical abuse
- Sexual abuse
- Emotional abuse
- Physical violence in the home

# The duty to report child abuse

- Anyone who believes a child has been abused or neglected – or is likely to be abused or neglected – must report it to the Director

# Child Protection Investigation

- Assessment by social worker
  - No further action or investigation
- Powers of a social worker
  - Speak to the child alone
  - Talk to people in child's life
  - Talk to parents
  - Come to child's home
  - Remove the child

# When a social worker calls or visits

- Parent is entitled to information about the report
- Parent should tell the social worker their views
- Find out about services available to parent and child
- Get contact information for social worker

# Develop a safety plan

- This is a plan that the parent and social worker develop to take better care of the child
  - What the problem is
  - What parent can do
  - How long it will take
  - What help parent needs
  - What child wants (if older child)

# What the social worker can decide

- Protection not required
- Protection required
  - Child not removed
- Protection required
  - Child removed

# Protection required – Child not removed

- Written agreement
- Supervision order
  - Social worker supervises parent's care of children
  - Social worker applies to court for this

# What agreements cover?

- Social worker works with parents rather than take case to court
- Outlines support services Director can provide
- Outlines a safety plan
- What family or friends will take care of child (kinship care agreement)
- How the Director will care for child (voluntary care agreement)
- Plan of care to meet needs of child
- Access for parent

# Ways to get Agreement

- Mediation
- Family group conference
- Traditional decision making
- Family case conferences

# Tips for Agreements

- Get help from a lawyer and an advocate
- Parent should be part of decision
- Be realistic of what parent can do
- Check time limits
- Take notes

# Protection required – child removed

- Get legal help as soon as possible
- Parents must go to the court hearings
- Parents should ask for visits with child
- Parents should speak to the social worker about the plan of care

# Presentation hearing

- First appearance in court
- Presentation hearing for a supervision order
  - Must happen within 10 days of applying for order
- Presentation hearing for removal
  - Must happen within 7 days of the removal

# What can happen at a first appearance?

- Court documents are filed
- Parties can ask for an adjournment
- Parent asks for mediation
- Parent consents to Director's application
  - Order granted
- Parent opposes Director's application
  - Hearing date will be set

# What orders can be made at the presentation stage

- Interim supervision order (child with parent)
  - Supervision terms
- Interim supervision order (child with 3<sup>rd</sup> party)
- Interim custody order
- Access orders for parents

# What happens next?

- Director must make an application to court 45 days after the presentation hearing ends
- This next hearing is called the **Protection Hearing**
- Social Worker must serve the parents with an application of what they will ask for and a Plan of Care for the child 10 days before hearing starts

# What happens at a protection hearing?

- Court documents are filed
- Parties can ask for adjournment
- Parent can ask for mediation
- Parent consents to Ministry application
  - Order granted
- Parent opposes Ministry application
  - Family Case Conference will be set
  - Trial dates will be set if the case does not settle

# What orders can be made at the protection stage?

- Supervision order (child with parent)
- Supervision order (child with 3<sup>rd</sup> party)
- Fixed term custody order
- Continuing custody order
- Access orders for parents
- Orders last longer and are usually for 6 months

# What will happen if there is a hearing?

- Social worker provides evidence about the child protection concerns and an interim plan of care (presentation hearing) or long term plan of care (protection and continuing custody hearings)
- Judge will hear from parent and may hear from the child if over 12
- The Director and parent can have other witnesses
- Hearings are a priority but difficult to get court time

# Extension of orders

- The Director may apply to extend an order already made
- Must provide 10 days notice of application

# Continuing custody orders

- If children have been in care for a while and the child protection concerns are not improving
- Director will apply for continuing custody order
- Director obtains permanent custody of child
- Director plans for a long-term stable placement, including adoption

# Can you change these Orders?

- Appeals
- New circumstances in parent's life

# What can advocates do?

- Help obtain information on housing, counselling, etc.
- Go to mediations, family group decisions, traditional decision making and family case conferences
- Provide information about process
- Assist in obtaining legal aid
- Assist lawyer to support client

# Interjurisdictional Support Orders

## Definition:

- Interjurisdictional Support Orders Act (ISOA) is an agreement between two “reciprocating jurisdictions” that recognize child and spousal support orders and agreements made in either location.
- The Act gives the reciprocating jurisdiction the ability to obtain, change or enforce a support order in the other jurisdiction.

## To whom does ISO apply?

ISO applies to either a Claimant or a Respondent in situations where one of them resides in a reciprocating (ie Foreign from BC) jurisdiction AND the foreign court must be a “reciprocating jurisdiction” (Regulations s.6).

- To get a support order, either spousal or child support, when the PAYOR resides in a different jurisdiction
- To change or enforce a support order that was made in a different jurisdiction

## What Canadian provinces/territories or other countries are reciprocating jurisdictions?

**Canada**—all of the Provinces and Territories;

**United States of America** – all of the United States, including the District of Columbia, Puerto Rico, Guam, American Samoa and the US Virgin Islands;

**Pacific Ocean** – Australia, Fiji, New Zealand (including the Cook Islands), Papua New Guinea;

**Europe** – Austria, Czech Republic, Germany, Norway, Slovak Republic, Swiss Confederation, Gibraltar, United Kingdom of Great Britain and Northern Ireland;

**Caribbean** – Barbados and its Dependencies;

**Africa** – South Africa, Zimbabwe; and

**Asia** – Hong Kong, Republic of Singapore

## Who cannot use ISO?

- If your support order was made under the *Divorce Act*;
- If the other party resides in a location not recognized as a reciprocating jurisdiction.

## What if the other party does not live in one of the reciprocal jurisdictions?

- China, many of the African states, many of the European states, India and Pakistan and much of South East Asia are NOT reciprocating states.
- Claimants who have support orders must apply to the appropriate foreign court to “register” their Order for the purposes of enforcement and are subject to the rules of court order enforcement in the foreign court.

## Best Practice

- 1st step is to determine whether the other side resides in a reciprocating state. If he or she does not, then the applicant will have to formally register the Support Order through the courts of the non-reciprocating state at his or her own cost.
- Some jurisdictions may require the Court to make a “Provisional Order”. The Provisional Order then has to be confirmed in a BC Court in order for it to take effect. *The case worker at ISO will be able to make the arrangements in this case.*

## Common Fact Patterns

- Your client (the payee) resides in BC and needs to get a support order from a party who resides in another jurisdiction (the Payor);
- Your client (the payor) has a support order made in a different jurisdiction and needs to have the order changed;
- Your client (the payor) has been served with paperwork for a support order from ISO on behalf of the payee who resides in another jurisdiction.



Discussion and Questions?



Let's Walk Through the Process



\*\*For the purposes of this session, we will assume that one party resides in BC and the other party resides in a reciprocating jurisdiction\*\*

## ISO FROM THE PERSPECTIVE OF THE PAYEE (PERSON RECEIVING SUPPORT)

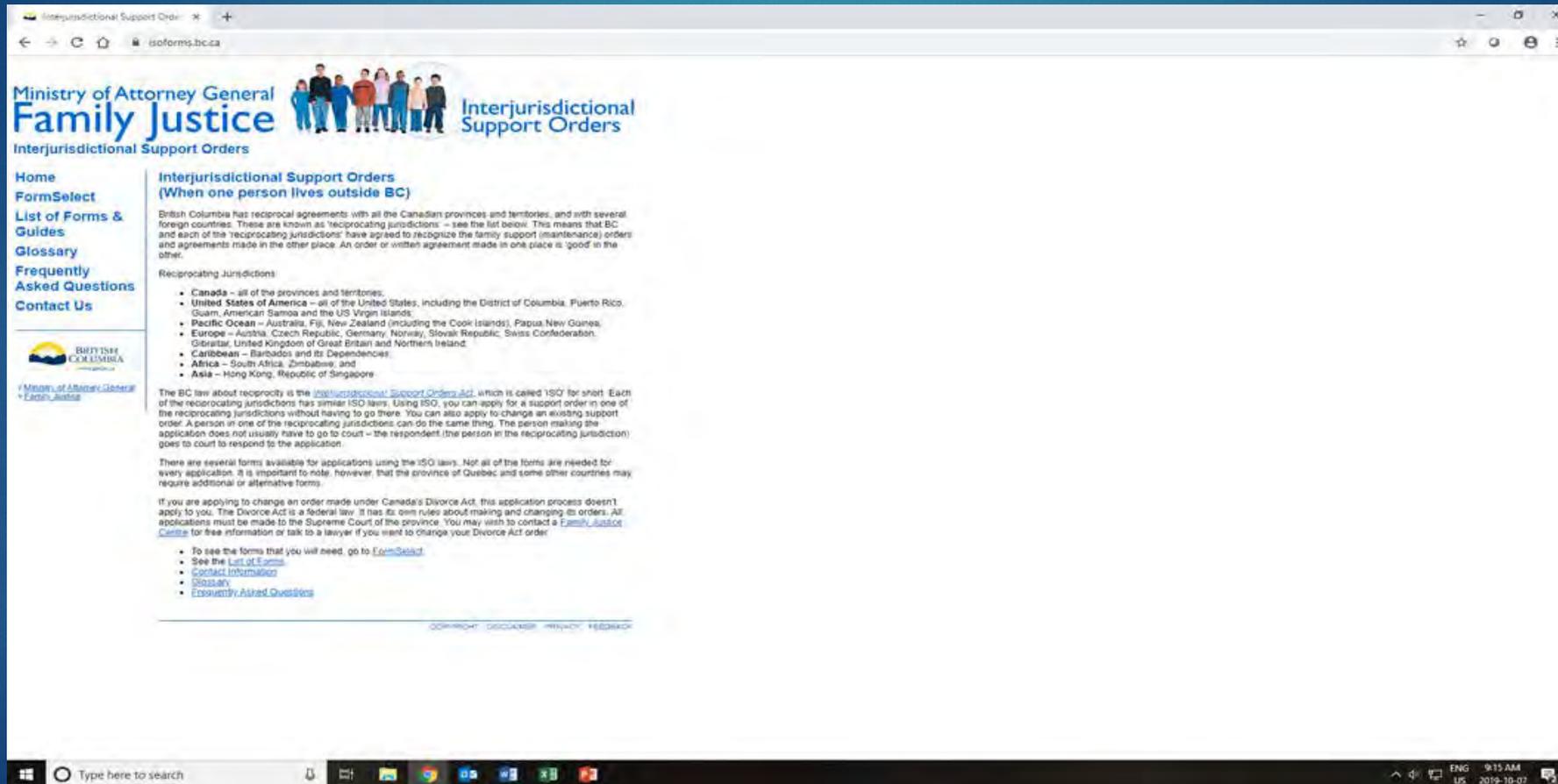
Who is this process for?

- A person who wishes to get a support order (Child and/or spousal support) when the other party does not live in BC.
- A person who wishes to change a support order made outside of BC.

# What are the steps?

Step 1: Go to the website [www.isoforms.bc.ca](http://www.isoforms.bc.ca)

Step 2: Use the menu on the top right to select "FormSelect"

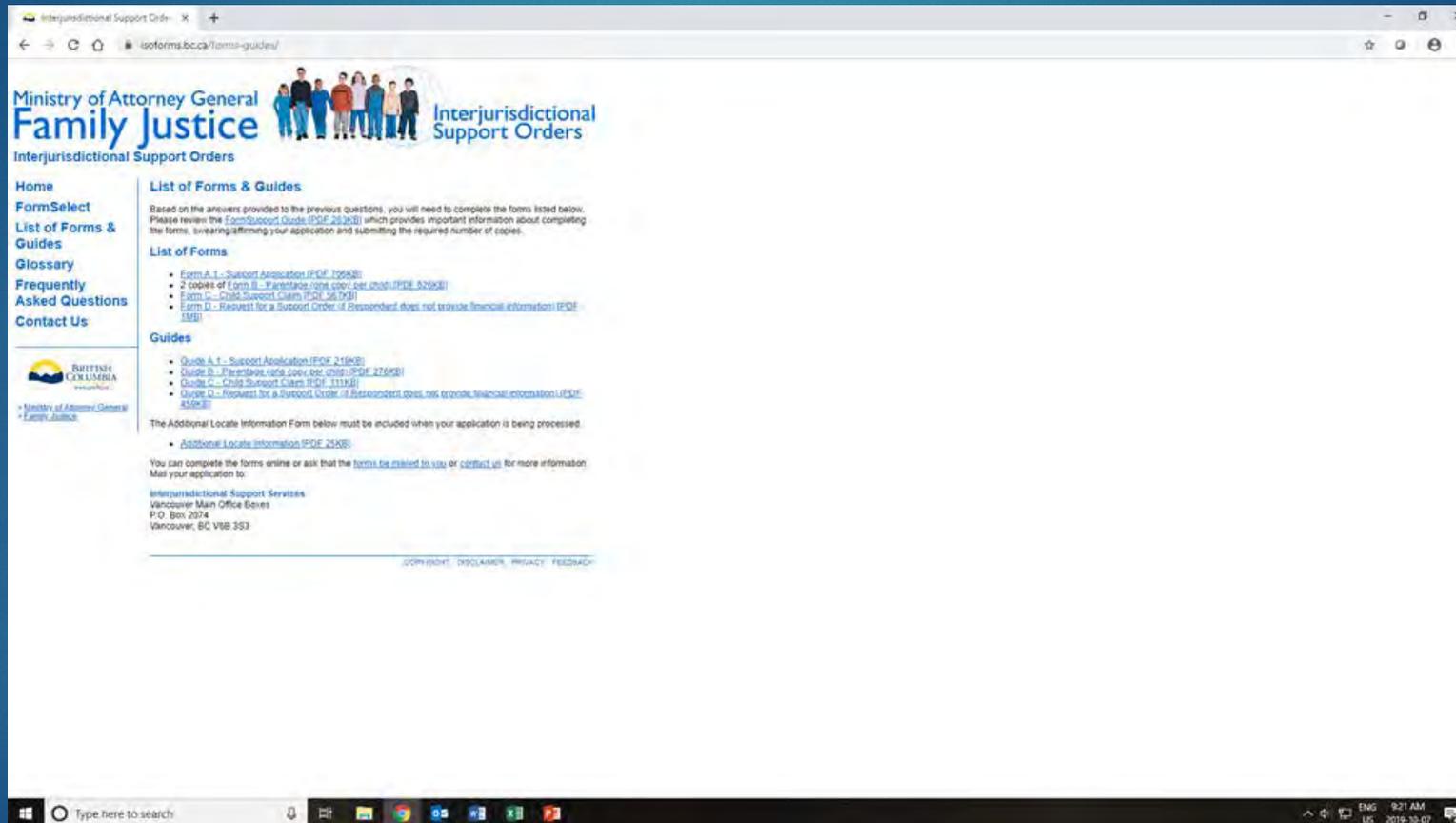


The screenshot shows a web browser window displaying the website [www.isoforms.bc.ca](http://www.isoforms.bc.ca). The page is titled "Ministry of Attorney General Family Justice Interjurisdictional Support Orders". A green arrow points to the "FormSelect" link in the left-hand navigation menu. The main content area is titled "Interjurisdictional Support Orders (When one person lives outside BC)" and contains text explaining reciprocal agreements with other jurisdictions. A list of reciprocating jurisdictions is provided, including Canada, the United States of America, the Pacific Ocean, Europe, the Caribbean, Africa, and Asia. The page also includes a footer with copyright information and a system tray at the bottom showing the date and time as 9:15 AM on 2019-10-07.

## Step 3: Answer the questionnaire to find the forms you need

The screenshot shows a web browser window displaying the 'FormSelect' page for Interjurisdictional Support Orders. The page is titled 'Ministry of Attorney General Family Justice Interjurisdictional Support Orders'. The main heading is 'FormSelect' with the sub-heading 'Follow the steps to see what forms you need.' Below this, the first step is 'Step 1: Jurisdiction'. The form contains two questions: 'Do you live in BC?' with radio buttons for 'Yes' and 'No', and 'Where does the other person (the respondent) live?' with a dropdown menu labeled 'Choose Jurisdiction...'. A 'Go to Step 2 >>' button is located below the second question. The page also features a left sidebar with navigation links: Home, FormSelect, List of Forms & Guides, Glossary, Frequently Asked Questions, and Contact Us. At the bottom of the page, there is a footer with the British Columbia logo and the text 'Ministry of Attorney General Family Justice'. The browser's address bar shows 'isoforms.bc.ca/interj-frm/interj-frm/'. The Windows taskbar at the bottom indicates the time is 9:19 AM on 2015-10-07.

# Step 4: Print out the forms and corresponding form support



The screenshot shows a web browser window displaying the "Interjurisdictional Support Orders" page from the Ministry of Attorney General Family Justice. The page is titled "Interjurisdictional Support Orders" and includes a navigation menu on the left with links for Home, FormSelect, List of Forms & Guides, Glossary, Frequently Asked Questions, and Contact Us. The main content area is titled "List of Forms & Guides" and contains the following text:

Based on the answers provided to the previous questions, you will need to complete the forms listed below. Please review the [Form Support Guide \(PDF 20-203\)](#) which provides important information about completing the forms, swearing/affirming your application and submitting the required number of copies.

**List of Forms**

- [Form A.1 - Support Application \(PDF 20682\)](#)
- [2 copies of Form B - Parentage \(only copy for child\) \(PDF 27002\)](#)
- [Form C - Child Support Claim \(PDF 26793\)](#)
- [Form D - Request for a Support Order if Respondent does not provide financial information \(PDF 25423\)](#)

**Guides**

- [Guide A.1 - Support Application \(PDF 21649\)](#)
- [Guide B - Parentage \(only copy for child\) \(PDF 27649\)](#)
- [Guide C - Child Support Claim \(PDF 11132\)](#)
- [Guide D - Request for a Support Order if Respondent does not provide financial information \(PDF 25423\)](#)

The Additional Local Information Form below must be included when your application is being processed.

- [Additional Local Information \(PDF 21828\)](#)

You can complete the forms online or ask that the [forms be mailed to you](#) or [contact us](#) for more information. Mail your application to:

Interjurisdictional Support Services  
Vancouver Main Office Boxes  
P.O. Box 2074  
Vancouver, BC V6B 3S3

At the bottom of the page, there are links for [COPYRIGHT](#), [DISCLAIMER](#), [PRIVACY](#), and [FEEDBACK](#).



**Step 5:** Have the client fill in as much information as they have\*

\*The client will likely not have all the information requested. If they have a way to find it, that is very helpful. If they do not have the information, just leave it blank.



**Step 6:** Once all forms are completed, send them to:

Interjurisdictional Support Services

Vancouver Main Office Boxes

PO Box 2074

Vancouver, BC V6B 3S3



IJSS will review the application.

Your client will be assigned a case worker for the file.

The case worker will contact the client if any information is incorrect or missing and request they provide that information.

## What happens next?

This will depend on the law in the reciprocating jurisdiction.

Some jurisdictions will require a Provisional Order\* which may require the applicant to give evidence in their local Provincial Courthouse.



\*If a Provisional Order is made, it still has to be confirmed in the reciprocating jurisdiction before it takes effect.

IJS will forward the Provisional Order to the reciprocating jurisdiction and a court date will be set. The other party will have a chance to provide evidence.

## What may happen?

A Judge may confirm the terms of the order; or

The Judge may change the Provisional Order; or

The Judge may require more information; or

The Judge may dismiss the application

## RESOURCES

Interjurisdictional Support Services

Vancouver Main Office Boxes

P.O. Box 2074

Vancouver, BC V6B 3S3

Phone: 604-660-2528

Toll-free: 1-866-660-2684

<https://www.isoforms.bc.ca/>

Interjurisdictional Support Orders Act: [http://www.bclaws.ca/civix/document/id/complete/statreg/02029\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/02029_01)

Provincial Court of British Columbia: <https://www.provincialcourt.bc.ca/enews/enews-05-06-2018>

Interjurisdictional Support Services: What's New in ISO? - Webinar Recording

<https://vimeo.com/259036771>

# Varying Parenting Time Orders in BC Provincial Court

By Vicky Law



WOMEN'S LEGAL CENTRE

# DISCLAIMER

Nothing we say in this presentation should be construed as legal advice. This is simply for information purposes only. Please consult with a lawyer if you need legal advice.

NOT LEGAL ADVICE



# Final vs. Interim Orders

- An order regarding parenting issues are not usually “**final**” – meaning they can be changed
- If a hearing was held where *viva voce* evidence was provided, it is *generally* considered to be a final order
- Orders at FCC’s are *generally* considered to be an interim order, especially if a trial has been scheduled

(but there are always exceptions...)



# Interim Hearings

- In BCPC, interim hearings can be held pending the actual trial because trial dates can be so far in advance
- in these situations, the Court needs to be *very* clear that there is a trial scheduled at a later date for a final determination

“Interim orders are designed primarily to maintain the status quo and to provide short-term solutions until issues regarding the best interests of a child can be fully canvassed at trial.”

*Fitzgibbon v. Fitzgibbon*, 2014 BCCA 403 at para 22



# s. 47 of the FLA

On application, a court may change, suspend or terminate an order respecting parenting arrangements if satisfied that, since the making of the order, there has been a change in the needs or circumstances of the child, including because of a change in the circumstances of another person.



# s. 47 is used for Final Orders

While [s. 47 of the *FLA*] differs from s. 17(5) of the *Divorce Act* and does not use the language of a “material change”, this Court has interpreted the equivalent provision in s. 20 of the *Family Relations Act*, which also did not use “material change” language, as requiring a material change in circumstances. This Court held that the two-step test from the Supreme Court of Canada’s decision in *Gordon v. Goertz*, [1996] 2 S.C.R. 27 applies despite the differences in the statutory language between s. 17(5) of the *Divorce Act* and s. 20 of the *FRA*: *Boychuck v. Singleton*, 2008 BCCA 355

*Williamson v. Williamson*, 2016 BCCA 87 at para 30



# *Gordon v. Goertz*, [1996] 2 SCR 27

[11] The requirement of a material change in the situation of the child means that an application to vary custody cannot serve as an indirect route of appeal from the original custody order. The court cannot retry the case, substituting its discretion for that of the original judge; it must assume the correctness of the decision and consider only the change in circumstances since the order was issued....



# Gordon v. Goertz, [1996] 2 SCR 27

[12] What suffices to establish a material change in the circumstances of the child? Change alone is not enough; *the change must have altered the child's needs or the ability of the parents to meet those needs in a fundamental way ...The question is whether the previous order might have been different had the circumstances now existing prevailed earlier...* Moreover, the change should represent a distinct departure from what the court could reasonably have anticipated in making the previous order.

[Emphasis added]



# *Gordon v. Goertz*, [1996] 2 SCR 27

[13] It follows that before entering on the merits of an application to vary a custody order the judge must be satisfied of:

- (1) a change in the condition, means, needs or circumstances of the child and/or the ability of the parents to meet the needs of the child;
- (2) which materially affects the child; and
- (3) which was either not foreseen or could not have been reasonably contemplated by the judge who made the initial order.



# s. 216 of FLA

**216** (1) Subject to this Act, if an application is made for an order under this Act, a court may make **an interim order** for the relief applied for.

(2) In making an interim order respecting a family law dispute, the court, to the extent practicable, must make the interim order in accordance with any requirements or conditions of this Act that would apply if the order were not an interim order.



# s. 216(3) of FLA

(3) On application by a party, **a court may change, suspend or terminate an interim order made under subsection (1)** if satisfied that at least one of the following circumstances exists:

(a) a change in circumstances has occurred since the interim order was made;

(b) evidence of a substantial nature that was not available at the time the interim order was made has become available.



# s. 216(4) of the FLA

(4) In making an order under subsection (3), the court must take into account all of the following:

(a) the change in circumstances or the evidence, or both, referred to in subsection (3);

(b) the length of time that has passed since the interim order was made;



## s. 216(4) of the FLA (continued)

(c) whether the interim order was made for the purpose of having a temporary arrangement in place, with the intention that the arrangement:

- (i) would not adversely affect the position of either party during negotiations, during family dispute resolution or at trial, and
- (ii) would not necessarily reflect the final arrangement between the parties;

(d) whether a trial has been scheduled;

(e) any potential adverse effect, on a party or a child of a party, of either making or declining to make an order under subsection (3).



# s. 217 of the FLA

If an application is made to change, suspend or terminate an order, an interim order for the relief applied for may be made only if the court is satisfied that

(a) a change in circumstances has occurred since the order that is the subject of the application was made, and

(b) the hardship to a party of denying interim relief before the application is heard outweighs the hardship to any party of granting interim relief.



# *B.K. v. J.B.*, 2015 BCSC 1481

[28] Where a court is asked to exercise the authority under s. 216(3) by varying (or suspending or terminating) a parenting interim order already made, *the court can properly start from the assumption that the interim order reflected the child's best interests insofar as those could be discerned at the time of the previous order.*

[Emphasis added]

(Continued...)



# *B.K. v. J.B.*, 2015 BCSC 1481

[28] ...It is for this reason that s. 216(3) and (4) focus the court's attention on whether there is a *change or new evidence since the previous order*, and, if there is, on the factors in s. 216(4). Those factors relate mainly to the timing of the application to vary in relation to the previous interim order and the trial; the purpose of the interim order; and the potential adverse effects on the parties of varying or not varying the interim order.



# Application Respecting Existing Orders or Agreements

- See template for AREO and Notice of Motion to have hearing done by way of affidavits



# Scenario 1

Father wants to vary parenting time with son who is 4 years old. Father lives in Calgary and comes to Vancouver once or twice a month to see his son. The existing order made by consent at FCC 6 months ago gives Father to have parenting time on one week's notice at least once per month for up to three consecutive daytime visits, with further parenting time as the parties agree.

Father seeks a variation of that order for overnight parenting time during the three-day periods. He also seeks a variation to permit him to take son outside the Province of British Columbia, and to modify the times for his Skype visits because of a change in his work schedule.



# Father's position and arguments

- Son asked for more parenting time with father
- Simple passage of time since FCC order
- Mother's unreasonableness and unwillingness to agree to increase parenting time to include overnights
- Mother has stopped breastfeeding and therefore, son's attachment to her was less close and father's time should be extended



# Mother's position and arguments

- Mom says son is increasingly whiny and unusually aggressive after parenting time with father.
- Son voiced opposition to going for parenting time with dad, which escalated to near-hysteria.
- This reaction coincides with child's nightmares and sleep disturbances.
- Mother is concerned that child has witnessed family violence from dad directed to mother and child is reacting



# Was there a change in circumstances?

Son's request to father for overnight parenting time and the end of breastfeeding, together with the simple passage of time, do not amount to a material change in circumstances or new evidence of a substantial nature concerning son's best interests since the interim orders. In the context of the unresolved issues, the changes and the new evidence on which Mr. B. relies in this application are relatively insignificant.

*B.K. v. J.B.*, 2015 BCSC 1481 at para 51



# *B.K. v. J.B.*, 2015 BCSC 1481

[49] While I make no findings about whether the alleged family violence took place or had the effects Ms. K. describes, I find no basis in the evidence on this application to disregard her stated concerns. Mr. B.'s own evidence provides no such basis, much of it revealing little more than an attitude of disrespect and blame toward Ms. K.

~ Madam Justice Holmes



# Scenario 2

Previous order made 6 months ago, that father shall have parenting time with the Child (15 months old) as follows, from 12:00 p.m. to 5:00 p.m. on each and every Wednesday, Saturday and Sunday. One month before Father's application, his time was increased to 10:00 am to 5:00 pm on the same day.

Father is now applying for:

- Shared parenting responsibilities; and
- Parenting time with the child every Friday at 6:00 p.m. to Monday at 6:00 p.m. and every alternate Tuesday at 6:00 p.m. to Wednesday at 6:00 p.m.



# Father's position and arguments

- Mother is no longer breastfeeding, gives pumped breast milk to Child
- Father is able to feed and care for child without his parents' assistance, especially when Mother has to go to work overnights
- Father has fed child, put him down for naps and engaged in various activities with child
- Child is adjusting to the increased in parenting time. He naps in the car after pick up and has a second nap in the afternoon
- The original order was a “Band-Aid” order until the Court was able to hear both parties' position, especially because it contained the terms “without prejudice”



# Mother's Position

- Father relies heavily on his mother to care for the child and has concerns about leaving child in care of his paternal grandmother
- Father has emailed mother to say that he is unable to help with child due to his heavy workload and need to catch up on work on the weekends
- Mother has never spent a night away from the child, her profession does not require her to spend overnights at the hospital.
- Mother takes child to almost all his medical appointments, comforts him at nights and has sleep trained him.
- Child's nap time is around the parenting exchanges and this has disrupted child's rest where is chronically sleep deprived.



# Was there a change in circumstances?

- Yes, father had care of child 3 days per week, without the assistance of his parents, for over 3 months since the last order
- It has been one month since father has cared for the child 7 hours per day
- Father has demonstrated that his capacity to care for child on a regular and consistent basis for up to 7 hours a day – this constitutes material change in circumstances

*Sandhu v. Bhullar*, 2016 BCSC 59 at para 45



# *Sandhu v. Bhullar*, 2016 BCSC 59

Court found:

- Mother has been primary caregiver of the child for his whole life
- Father is now taking parenting courses, has significant parenting time since last order
- Absent medical evidence that the child is chronically sleep deprived, the Court preferred Father's assertions that Child is adjusting to increased in his parenting time



# *Sandhu v. Bhullar*, 2016 BCSC 59

- Court also considered family violence. Before separation, both parties engaged in angry outbursts, some occurred in the presence of the child [para 62]
- Court found father was emotional abusive, which was directed solely towards the Mother [paras 63-64]
- Family violence was not directed towards the child, does not demand reduction in Father's parenting time or preclude an increase [para 66]
- Father's parenting time increased to one overnight per week, Mother is to supplement child's diet with expressed breast milk [72]



QUESTIONS?



NOT LEGAL ADVICE

THANK YOU!

Vicky Law

Lawyer

778-807-6160

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WOMEN'S LEGAL CENTRE

NOT LEGAL ADVICE

## 2. Housing

# SYSTEMIC POVERTY LAW UPDATE: HOUSING

DANIELLE SABELLI, CLAS

# LEGISLATION

## LEGISLATION: CANNABIS

- S 21.1 OF THE *RTA* DEALS WITH CANNABIS SMOKING.
  - “CANNABIS” HAS THE SAME MEANING AS IN THE *CANNABIS ACT*;
    - A NON-VIABLE SEED OF A CANNABIS PLANT;
    - A MATURE STALK, WITHOUT ANY LEAF, FLOWER, SEED OR BRANCH, OF SUCH A PLANT;
    - FIBRE DERIVED FROM A STALK REFERRED TO IN ITEM 2; AND
    - THE ROOT OR ANY PART OF THE ROOT OF SUCH A PLANT.

## LEGISLATION: CANNABIS

- EXISTING “NON-SMOKING” CLAUSES WILL APPLY TO CANNABIS SMOKING.
  - THIS DOES NOT APPLY IF THERE IS A TERM THAT EXPRESSLY PERMITS SMOKING CANNABIS.
  - VAPOURIZING A SUBSTANCE CONTAINING CANNABIS IS NOT SMOKING CANNABIS FOR THE THESE PURPOSES.
- ALL EXISTING TENANCY AGREEMENTS WILL BE DEEMED TO INCLUDE A NO-GROW (CULTIVATE, PROPAGATE OR HARVEST) CLAUSE, UNLESS:
  - THE TENANT IS AUTHORIZED UNDER THE APPLICABLE FEDERAL LAW TO GROW MEDICAL MARIJUANA;
  - TENANT IS IN COMPLIANCE WITH THE REQUIREMENTS UNDER THE LAW; OR
  - THE TENANCY AGREEMENT SPECIFICALLY ALLOWS GROWING.

## REGULATION: RENT INCREASE

- PURSUANT TO S 22 OF THE *RESIDENTIAL TENANCY REGULATION*, EFFECTIVE JANUARY 1, 2019 THE ANNUAL ALLOWABLE RENT INCREASE IS LIMITED TO INFLATION.
- PURSUANT TO S 32 OF THE *MANUFACTURED HOME PARK TENANCY REGULATION*, EFFECTIVE JANUARY 1, 2019 THE ANNUAL ALLOWABLE RENT INCREASE IS LIMITED TO INFLATION AND THE PROPORTIONAL AMOUNT.
- PURSUANT TO S 22 (4) OF THE *RESIDENTIAL TENANCY REGULATION*, IF A LANDLORD GIVES A NOTICE FOR THE ANNUAL ALLOWABLE RENT INCREASE WITH AN EFFECTIVE DATE AFTER JANUARY 1, 2019 BEFORE THIS CHANGE TOOK EFFECT AND USED THE OLD RENT INCREASE FORMULA (PERCENTAGE AMOUNT= INFLATION + 2%) THE LANDLORD MUST ISSUE A NEW, UPDATED SECOND NOTICE OF RENT PRIOR TO THE EFFECTIVE DATE OF THE OLD NOTICE OF RENT INCREASE WITH THE NEW RENT AMOUNT LIMITED TO INFLATION.
  - THE THREE MONTH NOTICE PERIOD DOES NOT APPLY TO THE NEW, UPDATED NOTICE OF RENT INCREASE.

# POLICY GUIDELINES

## POLICY GUIDELINE 2A: ENDING A TENANCY FOR OCCUPANCY BY LANDLORD, PURCHASER OR CLOSE FAMILY MEMBER

### GOOD FAITH REQUIREMENT

- LANDLORD DOES NOT INTEND TO DEFRAUD OR DECEIVE, DOES NOT HAVE AN ULTERIOR MOTIVE, AND IS NOT TRYING TO AVOID OBLIGATIONS UNDER THE RTA (SUCH AS AN OBLIGATION TO REPAIR AND MAINTAIN).
- IF EVIDENCE SHOWS THE LANDLORD HAS ENDED TENANCIES IN THE PAST TO OCCUPY A RENTAL UNIT WITHOUT OCCUPYING IT FOR AT LEAST 6 MONTHS, THIS MAY SUGGEST THE LANDLORD IS NOT ACTING IN GOOD FAITH IN A PRESENT CASE.
- IF THERE ARE COMPARABLE RENTAL UNITS IN THE PROPERTY THAT THE LANDLORD COULD OCCUPY, THIS MAY SUGGEST THE LANDLORD IS NOT ACTING IN GOOD FAITH.
- THE ONUS IS ON THE LANDLORD TO DEMONSTRATE THAT THEY PLAN TO OCCUPY THE RENTAL UNIT FOR AT LEAST 6 MONTHS AND THAT THEY HAVE NO OTHER ULTERIOR MOTIVE.

## POLICY GUIDELINE 2A: ENDING A TENANCY FOR OCCUPANCY BY LANDLORD, PURCHASER OR CLOSE FAMILY MEMBER

### OCCUPYING THE RENTAL UNIT

- “OCCUPY” MEANS “TO OCCUPY FOR A RESIDENTIAL PURPOSE” (SEE FOR EXAMPLE: *SCHULD V NIU, 2019 BCSC 949*).
- LANDLORD OR CLOSE FAMILY MEMBER INTEND IN GOOD FAITH TO USE THE RENTAL UNIT AS LIVING ACCOMMODATION OR AS PART OF THEIR LIVING SPACE.
- MUST LIVE THERE FOR A LEAST 6 MONTHS TO MEET THE REQUIREMENT UNDER S 51 (2) (TENANT’S COMPENSATION) OF THE *RTA*.

## POLICY GUIDELINE 2A: ENDING A TENANCY FOR OCCUPANCY BY LANDLORD, PURCHASER OR CLOSE FAMILY MEMBER

- *VACANT POSSESSION*: CANNOT END A TENANCY TO OCCUPY THE RENTAL UNIT AND LEAVE IT VACANT AND UNUSED (EXCEPT IN EXTENUATING CIRCUMSTANCES).
- *RECLAIMING A RENTAL UNIT AS LIVING SPACE*: THE LANDLORD CAN END THE TENANCY TO RECLAIM THE RENTAL UNIT AS PART OF THEIR LIVING ACCOMMODATION.

## POLICY GUIDELINE 2A: ENDING A TENANCY FOR OCCUPANCY BY LANDLORD, PURCHASER OR CLOSE FAMILY MEMBER

### CONSEQUENCES FOR NOT USING THE PROPERTY FOR THE STATED PURPOSES

- IF A TENANT CAN SHOW THAT A LANDLORD (OR PURCHASER) WHO ENDED THEIR TENANCY UNDER SECTION 49 OF THE RTA HAS NOT:
  - TAKEN STEPS TO ACCOMPLISH THE STATED PURPOSE FOR ENDING THE TENANCY WITHIN A REASONABLE PERIOD AFTER THE EFFECTIVE DATE OF THE NOTICE TO END TENANCY, OR
  - USED THE RENTAL UNIT FOR THAT STATED PURPOSE FOR AT LEAST SIX MONTHS BEGINNING WITHIN A REASONABLE PERIOD AFTER THE EFFECTIVE DATE OF THE NOTICE.

THE TENANT MAY SEEK AN ORDER THAT THE LANDLORD PAY THE TENANT ADDITIONAL COMPENSATION EQUAL TO 12 TIMES THE MONTHLY RENT.

THE LANDLORD MAY ONLY BE EXCUSED FROM THESE REQUIREMENTS IN EXTENUATING CIRCUMSTANCES.

## **POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE**

### **PERMITS AND APPROVALS REQUIRED BY LAW**

- A LANDLORD MUST HAVE ALL NECESSARY PERMITS AND APPROVALS THAT ARE REQUIRED BY LAW BEFORE THEY CAN GIVE THE TENANT A NOTICE TO END TENANCY. IF THE NOTICE IS DISPUTED BY THE TENANT, THE LANDLORD IS REQUIRED TO PROVIDE EVIDENCE OF THE REQUIRED PERMITS OR APPROVALS.
- THE PERMITS OR APPROVALS IN PLACE AT THE TIME THE NOTICE TO END TENANCY IS ISSUED MUST COVER AN EXTENT AND NATURE OF WORK THAT OBJECTIVELY REQUIRES VACANCY OF THE RENTAL UNIT.
- IF A REQUIRED PERMIT CANNOT BE ISSUED BECAUSE OTHER CONDITIONS MUST BE MET, THE LANDLORD SHOULD PROVIDE A COPY OF THE POLICY OR PROCEDURE WHICH ESTABLISHES THE CONDITIONS AND SHOW THAT THE LANDLORD HAS COMPLETED ALL STEPS POSSIBLE PRIOR TO OBTAINING VACANCY.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

LANDLORDS SHOULD CHECK WITH THE LOCAL GOVERNMENT TO DETERMINE WHETHER THERE ARE MUNICIPAL REQUIREMENTS TO UNDERTAKE RENOVATIONS AND SUBMIT EVIDENCE OF MEETING THOSE REQUIREMENTS.

- IF PERMITS NOT REQUIRED FOR WORK, LANDLORD MUST PROVIDE EVIDENCE THAT PERMITS ARE NOT REQUIRED BUT THE WORK NECESSITATES VACANCY.
- PERMITS AND APPROVALS CAN INCLUDE STRATA BYLAW REQUIREMENTS AND ZONING REQUIREMENTS.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### GOOD FAITH REQUIREMENT

- SIMILAR REQUIREMENTS AS POLICY GUIDELINE 2A.
- THE LANDLORD WOULD NOT BE ACTING IN GOOD FAITH IF THEIR INTENTION IS TO RE-RENT THE UNIT FOR A HIGHER RENT WITHOUT COMPLETING THE RENOVATIONS OR REPAIRS.
- THE LANDLORD MAY NOT BE ACTING IN GOOD FAITH IF THEY HAVE A HISTORY OF ENDING TENANCIES FOR RENOVATIONS OR REPAIRS THAT REQUIRES VACANCY IF THE RENOVATIONS OR REPAIRS WERE NEVER UNDERTAKEN.
- IF THE LANDLORD IS PLANNING TO UNDERTAKE REPAIRS OR RENOVATIONS, AND CLAIMS PERMITS ARE NOT REQUIRED, THIS RAISES THE QUESTION OF WHETHER THE LANDLORD HAS A GOOD FAITH INTENTION TO RENOVATE OR REPAIR THE UNIT IN A MANNER THAT REQUIRES VACANT POSSESSION.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### DEMOLITION

- DEMOLITION: COMPLETE AND IRREVERSIBLE DESTRUCTION OF THE RENTAL UNIT.
  - DOES NOT ALWAYS MEAN THE DESTRUCTION OF THE BUILDING CONTAINING THE RENTAL UNIT.
  - MAY ALSO INVOLVE PARTIAL DEMOLITION OF THE BUILDING SO THE RENTAL UNIT CEASES TO EXIST.
  - NO RIGHT OF FIRST REFUSAL OF THE RENTAL UNIT HAS BEEN DEMOLISHED.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### VACANCY REQUIREMENTS

- *BERRY AND KLOET V BRITISH COLUMBIA (2007 BCSC 257)*: THE RENOVATIONS BY THEIR NATURE MUST BE SO EXTENSIVE AS TO REQUIRE THE RENTAL UNIT TO BE VACANT IN ORDER FOR THEM TO BE CARRIED OUT.”
  - “VACANT” MEANS “EMPTY”.
- *AARTI INVESTMENTS LTD. V. BAUMANN (2019 BCCA 165)*: THE QUESTION POSED BY THE RTA IS WHETHER THE RENOVATIONS OR REPAIRS “OBJECTIVELY” AND REASONABLY REQUIRE VACANT POSSESSION.
  - WHERE THE VACANCY REQUIRED IS FOR AN EXTENDED PERIOD OF TIME, THE TENANT’S WILLINGNESS TO MOVE OUT OF THE RENTAL UNIT AND RETURN AT LATER DATE IS NOT SUFFICIENT TO ESTABLISH WHETHER THE REPAIRS OR RENOVATIONS OBJECTIVELY REQUIRE VACANT POSSESSION.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

- *ALLMAN V. AMACON PROPERTY MANAGEMENT SERVICES INC.* (2006 BCSC 725): A LANDLORD CANNOT END A TENANCY TO RENOVATE OR REPAIR A RENTAL UNIT JUST BECAUSE IT WOULD BE FASTER, MORE COST-EFFECTIVE, OR EASIER TO HAVE THE UNIT EMPTY.
  - QUESTION IS WHETHER THE “NATURE AND EXTENT” OF THE RENOVATIONS OR REPAIRS REQUIRE THE RENTAL UNIT TO BE VACANT.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### RENOVATIONS OR REPAIRS OBJECTIVELY AND REASONABLY REQUIRING VACANT POSSESSION

- EXAMPLES INCLUDE:
- MAKE IT UNSAFE FOR THE TENANTS TO LIVE THERE (E.G., THE WORK REQUIRES EXTENSIVE ASBESTOS REMEDIATION) FOR A PROLONGED PERIOD; OR
- RESULT IN THE PROLONGED LOSS OF AN ESSENTIAL SERVICE OR FACILITY (E.G., THE ELECTRICAL SERVICE TO THE RENTAL UNIT MUST BE SEVERED FOR SEVERAL WEEKS).

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### RENOVATIONS OR REPAIRS OBJECTIVELY AND REASONABLY REQUIRING VACANT POSSESSION

- RENOVATIONS OR REPAIRS THAT RESULT IN TEMPORARY OR INTERMITTENT LOSS OF AN ESSENTIAL SERVICE OR FACILITY OR DISRUPTION OF QUIET ENJOYMENT DO NOT USUALLY REQUIRE THE RENTAL UNIT TO BE VACANT (LIST OF FURTHER EXAMPLES FOUND IN APPENDIX A OF THE POLICY):
  - RE-PIPING THE APARTMENT BUILDING; AND
  - COSMETIC RENOVATIONS (REPLACING LIGHT SWITCHES, RECEPTACLES, BASEBOARD HEATERS, CARPETS, FLOORING, SINKS, TOILETS, BATHTUBS ETC.)

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### RIGHT OF FIRST REFUSAL

- IF THE TENANCY IS BEING ENDED UNDER SECTION 49(6)(B) OF THE RTA AND THE RESIDENTIAL PROPERTY HAS 5 OR MORE RENTAL UNITS, THE TENANT IS ENTITLED TO ENTER INTO A NEW TENANCY AGREEMENT FOR THE RENTAL UNIT ONCE RENOVATIONS OR REPAIRS ARE COMPLETE.
- THE TENANT MUST GIVE THE LANDLORD NOTICE BEFORE THEY VACATE THE RENTAL UNIT THAT THEY WANT TO BE ABLE TO EXERCISE THE RIGHT OF FIRST REFUSAL.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

- IF THE TENANT GIVES THE LANDLORD NOTICE, THE LANDLORD MUST COMPLETE A “45 DAY NOTICE OF AVAILABILITY” .
- LANDLORD MUST GIVE THIS NOTICE AND A TENANCY AGREEMENT AT LEAST 45 DAYS BEFORE THE REPAIRS OR RENOVATIONS ARE COMPLETED.
- IF THE TENANT DOES NOT ENTER INTO A NEW TENANCY AGREEMENT BY THE AVAILABILITY DATE, THE TENANT HAS NO FURTHER RIGHTS RESPECTING THE RENTAL UNIT. LANDLORD CAN RE-RENT THE RENTAL UNIT AT THIS POINT.

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

- IF THE LANDLORD DOES NOT COMPLY WITH THE REQUIREMENTS, OR FAILS TO ALLOW THE TENANT TO EXERCISE THEIR RIGHT OF FIRST REFUSAL, THE LANDLORD MUST PAY THE TENANT AN AMOUNT THAT IS EQUIVALENT TO 12 TIMES THE MONTHLY RENT PAYABLE UNDER THE OLD TENANCY AGREEMENT (UNLESS THERE ARE EXTENUATING CIRCUMSTANCES).

## POLICY GUIDELINE 2B: ENDING A TENANCY TO DEMOLISH, RENOVATE, OR CONVERT A RENTAL UNIT TO A PERMITTED USE

### CONVERTING TO A NON RESIDENTIAL USE

- NON-RESIDENTIAL USE: MEANS SOMETHING OTHER THAN USE AS LIVING ACCOMMODATION.
  - SOMETIMES LIVING ACCOMMODATIONS ARE SECONDARY, OR INCIDENTAL TO NON-RESIDENTIAL USE.
    - E.G. COMMUNITY CARE FACILITY.
  - A LANDLORD CANNOT END A TENANCY FOR NON-RESIDENTIAL USE TO LEAVE THE RENTAL UNIT VACANT AND UNUSED.

## POLICY GUIDELINE 27: JURISDICTION

### DISPUTES BETWEEN TENANTS AND ROOMMATES

- HAS NO JURISDICTION TO RESOLVE DISPUTES BETWEEN CO-TENANTS, TENANTS IN COMMON, OR ROOMMATES.
- TENANT MAY BE A LANDLORD IF THEY RENT OUT THE LOWER SUITE OF A RESIDENTIAL HOUSE, BUT NOT A SECOND BEDROOM IN A BUILDING.

## POLICY GUIDELINE 39: DIRECT REQUESTS

### ADJOURNED, WITH THE HEARING RECONVENED AS A PARTICIPATORY HEARING

- DIRECTOR MAY ADJOURN THE PROCEEDING AND RECONVENE IT AS A PARTICIPATORY HEARING IF THEY HAVE QUESTIONS ABOUT THE EVIDENCE, WHICH WOULD BEST BE ANSWERED THROUGH ORAL EVIDENCE.
- DIRECTOR MAY ADJOURN THE PROCEEDING AND RECONVENE IT IS A PARTICIPATORY HEARING IF THE DIRECTOR ACCEPTS THE TENANT'S APPLICATION SEEKING AN EXTENSION OF TIME ONCE THE DIRECT REQUEST PROCESS HAS BEGUN.
- IF A TENANT FILES AN APPLICATION TO DISPUTE THE NOTICE, THE DIRECT REQUEST PROCESS IS NOT AVAILABLE TO THE LANDLORD.
- IF THE LANDLORD ISSUES SUBSEQUENT NOTICES AND REQUESTS ANOTHER DIRECT REQUEST, SUCH APPLICATION WILL BE CROSS HEARD AT THE SAME TIME AS THE TENANT'S APPLICATION.

## POLICY GUIDELINE 42: DIGITAL EVIDENCE

### FILE SIZE AND FORMAT RESTRICTIONS

- RTB MAY RESTRICT THE SIZE AND FORMAT OF FILES THAT CAN BE UPLOADED ONLINE.
- THE MAXIMUM FILE SIZE FOR NON-VIDEO FILES THAT CAN BE ELECTRONICALLY SUBMITTED IS 10MB.
- THE MAXIMUM FILE SIZE FOR VIDEO FILES THAT CAN BE ELECTRONICALLY SUBMITTED IS 200MB.
- POLICY GUIDELINE LISTS FORMATS THAT ARE NOT ACCEPTABLE.

## POLICY GUIDELINE 47: ACCESS TO RECORDS AND AND INFORMATION

- RTB CANNOT RELEASE CERTAIN TYPES OF INFORMATION TO ANYONE OTHER THAN THE PARTY THAT SUBMITTED (INFO REGARDING: FEE WAIVERS, MEDICAL INFORMATION TO SUPPORT THE FORMAT OF A HEARING, PERSONAL INFORMATION PROVIDED TO THE RTB IN CONFIDENCE, INFORMATION IN SUPPORT OF A REVIEW CONSIDERATION APPLICATION.
- STATUS OF FILE NOT AN IMPEDIMENT TO PROVIDING ACCESS.
- REQUESTS FOR INFORMATION OVER THE PHONE REQUIRE RTB TO VALIDATE THE IDENTITY OF THE CALLER BEFORE RELEASING ANY PERSONAL INFORMATION.
- REQUESTS FROM A LANDLORD OR TENANT TO SEARCH THE DATABASE TO DETERMINE IF THERE IS AN ACTION AGAINST THEM WILL BE ACCOMMODATED , BUT ONLY IF THE RTB CAN VERIFY THE IDENTITY OF THE CALLER.

## POLICY GUIDELINE 47: ACCESS TO RECORDS AND AND INFORMATION

- TELEPHONE CALLS TO THE RTB FOR INFORMATION ARE RECORDED FOR QUALITY ASSURANCE AND TRAINING PURPOSES ONLY. RECORDINGS OR TRANSCRIPTS WILL NOT BE RELEASED BY RTB.
- A PARTY TO A FILE MAY MAKE A WRITTEN REQUEST FOR ANY DOCUMENTS OR EVIDENCE FROM A DISPUTE RESOLUTION PROCEEDING FILE THEY ARE PARTY TO, AT ANY TIME DURING THE DISPUTE RESOLUTION PROCESS.
- ONCE DOCUMENTS OR EVIDENCE ARE SUBMITTED TO RTB, THEY WILL NOT BE RETURNED TO PARTIES.
- IF A PARTY REQUESTS ACCESS TO A PHYSICAL FILE THAT THEY ARE A PARTY TO, THEY MUST ATTEND THE BURNABY OFFICE TO DO SO AND WILL BE REQUIRED TO VERIFY THEIR IDENTITY.

## POLICY GUIDELINE 51: EXPEDITED HEARINGS

- ORDINARILY, THE SOONEST AN APPLICATION FOR DISPUTE RESOLUTION CAN BE SCHEDULED FOR A HEARING IS 22 DAYS AFTER THE APPLICATION IS MADE. HOWEVER, RTB HEARINGS WILL BE EXPEDITED IF THERE IS AN IMMINENT DANGER TO THE HEALTH, SAFETY, OR SECURITY OF A LANDLORD OR TENANT, OR A TENANT HAS BEEN DENIED ACCESS TO THEIR RENTAL UNIT.
- EXPEDITED HEARINGS LIMITED TO THE FOLLOWING:
  - EARLY END TO TENANCY;
  - ORDER OF POSSESSION FOR A TENANT; AND
  - EMERGENCY REPAIRS.

## POLICY GUIDELINE 51: EXPEDITED HEARINGS

- AN EXPEDITED HEARING CANNOT BE COMBINED WITH ANOTHER CLAIM, SUCH AS A REQUEST FOR MONETARY COMPENSATION (EXCEPT A REQUEST FOR REPAYMENT OF THE FILING FEE).
- ONCE AN APPLICATION FOR AN EXPEDITED HEARING IS MADE, IT CANNOT BE AMENDED EXCEPT AT THE HEARING WITH THE PERMISSION OF THE ARBITRATOR (TO PREVENT QUEUE JUMPING).
- DIRECTOR WILL TRY TO SCHEDULE EXPEDITED HEARINGS WITHIN 12 DAYS FROM THE DATE IT IS RECEIVED.

## POLICY GUIDELINE 51: EXPEDITED HEARINGS

- IF THE MATTER IS EXTREMELY URGENT, DIRECTOR MAY TRY TO SCHEDULE A HEARING WITHIN 6 DAYS.
- “EXTREMELY URGENT” COULD APPLY TO THE FOLLOWING SITUATIONS:
  - TENANT HAS ASSAULTED THE LANDLORD AND THERE IS SUFFICIENT PROOF (VIDEO RECORDINGS, WITNESS STATEMENTS, AND POLICE STATEMENTS); AND
  - TENANT HAS BEEN ILLEGALLY EVICTED AND THERE IS SUFFICIENT PROOF (WITNESS STATEMENTS AND SOCIAL WORKER STATEMENTS).

## POLICY GUIDELINE 51: EXPEDITED HEARINGS

### SERVICE

- DIRECTOR ISSUED A STANDING ORDER ON SERVICE THAT PARTIES TO AN EXPEDITED HEARING MUST USE:
  - IF HEARING SCHEDULED BETWEEN 6-11 DAYS, PARTIES MUST PERSONALLY SERVE DOCUMENTS;
  - IF HEARING SCHEDULED BETWEEN 12-16 DAYS, PARTIES CAN PERSONALLY SERVE DOCUMENTS OR POST IT ON THE DOOR; OR OTHER CONSPICUOUS PLACE; AND
  - IF HEARING SCHEDULED FOR 17 DAYS OR MORE, CAN SERVE USING ABOVE TWO METHODS OR BY REGISTERED MAIL.
  - ONCE SERVED, APPLICATION MUST COMPLETE A “PROOF OF SERVICE: NOTICE OF EXPEDITED HEARING” FORM AND SUBMIT IT TO THE RTB AT LEAST 2 DAYS BEFORE THE HEARING.

# POLICY GUIDELINE 51: EXPEDITED HEARINGS

## RESPONDING TO APPLICATIONS FOR AN EXPEDITED HEARING

- A RESPONDENT'S REQUEST FOR AN ADJOURNMENT ON THE GROUNDS THAT THEY DID NOT HAVE TIME TO REVIEW THE RESPONDENT'S SUBMISSIONS WILL USUALLY BE DENIED IF THE ARBITRATOR DOES NOT BELIEVE THE RESPONDENT ACTED PROMPTLY AND WITHOUT DELAY OR IF THEY FAILED TO COMPLY WITH THE DIRECTOR'S STANDING ORDER ON SERVICE.

# CASE LAW

## “RENOVICTIONS”: BAUMANN V AARTI INVESTMENTS LTD., 2018 BCSC 636

### VACANT POSSESSION

- COURT FOUND THE FOLLOWING:
  - ARBITRATOR FAILED TO CONSIDER Ms. BAUMANN’S OFFER TO VACATE THE RENTAL UNIT FOR THE DURATION OF THE REPAIRS.
  - THE RATIONALE BEHIND S 49(6) OF THE RTA IS TO ENSURE LANDLORDS CAN CARRY OUT RENOVATIONS. TERMINATING A TENANCY WHERE THE TENANT IS AGREEABLE TO VACATING FOR THE DURATION OF THE RENOVATIONS IS INCONSISTENT WITH THIS RATIONALE.
  - ARBITRATOR FAILED TO RESOLVE THE QUESTION OF WHETHER THE NATURE AND EXTENT OF THE RENOVATIONS REQUIRED VACANT POSSESSION.

**“RENOVICTIONS”: BAUMANN V AARTI INVESTMENTS LTD., 2018**  
**BCSC 636**

**GOOD FAITH REQUIREMENT**

- COURT FOUND THE FOLLOWING:
  - ARBITRATOR FELL INTO ERROR AND NEGLECTED TO PROPERLY APPLY THE BURDEN OF PROOF ON THE LANDLORD TO ESTABLISH GOOD FAITH.
  - THE EVIDENCE AND CONTEXT WAS MORE THAN SUFFICIENT TO RAISE THE ISSUE OF GOOD FAITH. THE ARBITRATOR FAILED TO PROPERLY COME TO TERMS WITH THE REQUIREMENT TO ADDRESS THE ISSUE OF GOOD FAITH.

## **“RENOVICTIONS”: BAUMANN V AARTI INVESTMENTS LTD., 2018 BCSC 636**

### **PERMITS**

- COURT FOUND THE FOLLOWING:
  - LANDLORD DID NOT HAVE ALL THE NECESSARY PERMITS FOR THE WORK TO BE CARRIED OUT.
  - THE REQUIREMENT FOR “ALL” THE NECESSARY PERMITS IS NOT SATISFIED BY OBTAINING “SOME” OF THE NECESSARY PERMITS.

**“RENOVICTIONS”: AARTI INVESTMENTS LTD. V BAUMANN, 2019**  
**BCCA 165**

**VACANT POSSESSION**

- BCCA PANEL DISAGREED WITH THE CHAMBERS JUDGE:
  - NEITHER PRECEDENT NOR COMMON SENSE REQUIRE THE ARBITRATOR TO EXPRESSLY DEAL WITH THE EVIDENCE THE TENANT IN THIS CASE WAS WILLING TO FIND ALTERNATE ACCOMMODATION FOR THE DURATION OF THE WORK.
  - THE QUESTION IS WHETHER, OBJECTIVELY, THE REPAIRS OR RENOVATION ARE SUCH THAT THEY REASONABLY REQUIRE VACANT POSSESSION.
  - A BRIEF PERIOD OF EMPTINESS MAY STILL NEED TO BE CONSIDERED.

## **“RENOVICTIONS”: AARTI INVESTMENTS LTD. V BAUMANN, 2019 BCCA 165**

### **GOOD FAITH REQUIREMENT**

- BCCA PANEL AGREED WITH THE CHAMBERS JUDGE:
  - WHILE THE ARBITRATOR FOUND THE LANDLORD “TRULY” INTENDED TO DO THE RENOVATIONS DESCRIBED IN THE EVIDENCE, HE DID NOT EXPRESSLY ADDRESS THE TENANT’S EVIDENCE OF AN ULTERIOR MOTIVE.
  - ARBITRATOR HAD ERRONEOUSLY REQUIRED THE TENANT TO PROVE THE LANDLORD ACTED IN BAD FAITH.

## **“RENOVICTIONS”: AARTI INVESTMENTS LTD. V BAUMANN, 2019 BCCA 165**

### **PERMITS**

- BCCA PANEL AGREED WITH THE CHAMBERS JUDGE:
  - THE LANDLORD HAD THE PERMITS AND APPROVALS REQUIRED BY LAW TO DO SOME, BUT NOT ALL, OF THE WORK IT CONTEMPLATED.
  - AN ARBITRATOR CANNOT WAIVE OR IGNORE THE STATUTORY REQUIREMENT BY ISSUING AN ORDER OF POSSESSION IF THE LANDLORD IS NOT AUTHORIZED AND PERMITTED TO CONDUCT WORK THAT WILL NECESSITATE OBTAINING VACANT POSSESSION AT THE TIME THEY ISSUE THE NOTICE TO END TENANCY.

## UNABLE TO ATTEND THE HEARING: M.B.B. V AFFORDABLE HOUSING CHARITABLE SOCIETY, 2018 BCSC 2418

### UNABLE TO ATTEND THE HEARING

- IN REGARDS TO THE **REVIEW DIVISION DECISION**, THE COURT FOUND THE FOLLOWING:
  - ARBITRATOR FAILED TO ADDRESS M.B.B.'S ASSERTION THAT SHE MISUNDERSTOOD THE HEARING INSTRUCTIONS.
  - ARBITRATOR'S ASSERTION THAT M.B.B. SHOULD HAVE SOUGHT CLARIFICATION IN ADVANCE OF THE HEARING WAS NOT THE ANSWER. M.B.B. DID NOT ASSERT SHE WAS CONFUSED, RATHER SHE THOUGHT SHE KNEW WHAT TO DO.

## UNABLE TO ATTEND THE HEARING: M.B.B. V AFFORDABLE HOUSING CHARITABLE SOCIETY, 2018 BCSC 2418

- IN REGARDS TO THE **ORIGINAL DECISION**, THE COURT FOUND THE FOLLOWING:
  - RULE 7.3 OF THE RTB'S RULES OF PROCEDURE EMPOWERS AN ARBITRATOR TO DISMISS AN APPLICATION WHEN A PARTY FAILS TO ATTEND A HEARING.
  - RULE 7.3 OF RTB'S THE RULES OF PROCEDURE DOES NOT EMPOWER AN ARBITRATOR TO DISMISS AN APPLICATION TO CANCEL A NOTICE OF HEARING WITHOUT CONSIDERING WHETHER THE STATUTORY CRITERIA TO END A TENANCY HAVE BEEN MET.
  - IT IS INSUFFICIENT TO DISMISS THE APPLICATION SOLELY ON THE GROUNDS THAT AN APPLICANT DID NOT ATTEND THE HEARING.

## TENANT'S COMPENSATION: SCHULD V NIU, 2019 BCSC 949

- LANDLORD ISSUED A 2 MONTH NOTICE TO END TENANCY TO MOVE A CLOSE FAMILY MEMBER INTO THE UNIT.
- ARBITRATOR FOUND THAT THE WORD "OCCUPY" DOES NOT MEAN THE LANDLORD IS REQUIRED TO RESIDE IN THE RENTAL UNIT FOR THESE PURPOSES.
- ARBITRATOR FOUND THAT THE LANDLORD'S INTENTION TO DEMOLISH THE PREMISES AND TO UTILIZE THE PREMISES FOR CONSTRUCTION OF ANOTHER RESIDENCE WAS SUFFICIENT TO END THE TENANCY.
- COURT FOUND THAT THE ARBITRATOR CHOSE TO EXPAND THE DEFINITION OF THE WORD "OCCUPY" IN S. 49(3) OF THE RTA (CLOSE FAMILY MEMBER) SO THAT IT ENCOMPASSED S 49(6) OF THE RTA (DEMOLITION). THIS INTERPRETATION IS NOT IN THE PROPER LEGAL CONTEXT.
- POLICY GUIDELINE 2A: ENDING A TENANCY FOR OCCUPANCY BY LANDLORD, PURCHASER OR CLOSE FAMILY MEMBER REFERENCES THIS CASE AND STATES THAT IT STANDS FOR THE PROPOSITION THAT "OCCUPY" MEANS "RESIDE".

## INTERPRETATION: SURI V VAHRA, 2019 BCSC 675

- LANDLORD'S TESTIMONY INTERPRETED BY HIS SON-IN-LAW. TENANT RAISED THE ISSUE OF BIAS AND THAT THE INTERPRETATION WAS INACCURATE.
- THE COURT FOUND THE FOLLOWING:
  - NO BREACH OF PROCEDURAL FAIRNESS IN THE DECISION OF THE ARBITRATOR TO PERMIT THE INTERPRETER TO ASSIST THE LANDLORD AT THE HEARING IN ORDER TO MAKE HIS PRESENTATION.
  - THERE IS NO REQUIREMENT THAT THE ASSISTANT CHOSEN BY THE LANDLORD TO FULFILL THAT FUNCTION, BE AT ARM'S LENGTH TO THE LANDLORD, OR THAT HE EVEN HAVE A HIGH LEVEL OF PROFICIENCY IN BOTH LANGUAGES.
  - A DENIAL OF PROCEDURAL FAIRNESS OCCURS WHEN WHEN THE INTERPRETER'S ROLE CROSSED OVER TO INTERPRETING THE LANDLORD'S TESTIMONY TO THE ARBITRATOR.

## INTERPRETATION: SURI V VAHRA, 2018 BCSC 675

- LIMITED PROFICIENCY IN PUNJABI, COUPLED WITH HIS PERSONAL RELATIONSHIP TO THE LANDLORD, RAISES A REAL QUESTION AS TO WHETHER THE EVIDENCE UPON WHICH THE ARBITRATOR RELIED IN MAKING HIS DECISION THAT THE LANDLORD ACTED IN GOOD FAITH, WAS AN ACCURATE INTERPRETATION OF THE LANDLORD'S EVIDENCE.
- WHERE AN ARBITRATOR RELIES ON THE TESTIMONY OF A PARTY TO MAKE FINDINGS OF CREDIBILITY, IT IS INCUMBENT ON THE ARBITRATOR TO TAKE STEPS TO ENSURE THAT THE INTERPRETATION ON WHICH THE ARBITRATOR RELIES IS ACCURATE AND FREE FROM ANY BIAS, PARTICULARLY WHERE BIAS OR COMPETENCE OF THE INTERPRETER ARE RAISED AS A CONCERN.

## ADEQUACY OF REASONS: MARSHALL V POHL 2019 BCSC 406

- THE COURT FOUND THE FOLLOWING:
  - THE ARBITRATOR SUMMARIZED THE EVIDENCE AND SUBMISSIONS OF THE PARTIES BUT MAKES NO FINDINGS OF FACT ABOUT WHICH INCIDENTS ACTUALLY OCCURRED, BEYOND THE GENERAL STATEMENT THAT THERE WERE “MULTIPLE INCIDENTS”.
  - THE ARBITRATOR DOES NOT ADDRESS THE PETITIONER’S EXPLANATION AND DENIAL OF SOME OF THE COMPLAINTS OR EXPLAIN WHY THE EVIDENCE OF THE LANDLORD WAS APPARENTLY PREFERRED.
  - THE ARBITRATOR DOES NOT EXPLAIN WHICH INCIDENTS, EITHER INDIVIDUALLY OR CUMULATIVELY, MET THE STATUTORY STANDARD OF A “SIGNIFICANT INTERFERENCE” OR AN “UNREASONABLE DISTURBANCE”.



# Housing Update, 2019

Current Issues in Housing

Danielle Sabelli, CLAS

Amber Prince, Atira

Zuzana Modrovic, TRAC

# Changes to the *RTA* and RTB Policy Guidelines

# Section 21.1 of the RTA - Cannabis

## Cannabis

21.1 (1) In this section:

"cannabis" has the same meaning as in the *Cannabis Control and Licensing Act*;

"cannabis control date" means the date that section 14 of the *Cannabis Control and Licensing Act* comes into force;

"cannabis plant" has the same meaning as in the *Cannabis Control and Licensing Act*;

"grow" means to cultivate, propagate or harvest;

"medical cannabis" has the same meaning as in the *Cannabis Control and Licensing Act*.

(2) If a tenancy agreement entered into before the cannabis control date

(a) includes a term that prohibits or limits smoking tobacco, and

(b) does not include a term that expressly permits smoking cannabis,

the tenancy agreement is deemed to include a term that prohibits or limits smoking cannabis in the same manner as smoking tobacco is prohibited or limited.

(3) For greater certainty, vapourizing a substance containing cannabis is not smoking cannabis for the purpose of subsection (2).

(4) A tenancy agreement entered into before the cannabis control date is deemed to include a term that prohibits growing cannabis plants in or on the residential property unless, on the day before the cannabis control date,

(a) the tenant is growing in or on the residential property one or more cannabis plants that are medical cannabis,

(b) growing the plants is not contrary to a term of the tenancy agreement, and

(c) the tenant is authorized under applicable federal law to grow the plants in or on the residential property and the tenant is in compliance with the requirements under that law with respect to the medical cannabis.

# Policy Guideline 2



## 2. Ending a Tenancy: Landlord's Use of Property

May-18

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The Residential Tenancy Branch issues policy guidelines to help Residential Tenancy Branch staff and the public in addressing issues and resolving disputes under the *Residential Tenancy Act* or the *Manufactured Home Park Tenancy Act*. This policy guideline may be revised and new guidelines issued from time to time.

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This policy guideline addresses the requirements for ending a tenancy for landlord's use of property or end of employment with the landlord, including:

- the good faith requirement,
- the requirement to have permits and approvals in place before giving a notice to end tenancy for demolition, major renovations or repairs, or conversion, and
- the vacancy requirement for major renovations or repairs.

It also addresses tenant applications for compensation arising from a Notice to End Tenancy for landlord's use of property.

# Policy Guideline 2A

## Good Faith Requirement

- Landlord does not intend to defraud or deceive, does not have an ulterior motive, and is not trying to avoid obligations under the RTA (such as an obligation to repair and maintain)
- If evidence shows the landlord has ended tenancies in the past to occupy a rental unit without occupying it for at least 6 months, this may suggest the landlord is not acting in good faith in a present case.
- If there are comparable rental units in the property that the landlord could occupy, this may suggest the landlord is not acting in good faith.
- The onus is on the landlord to demonstrate that they plan to occupy the rental unit for at least 6 months and that they have no other ulterior motive.

# Policy Guideline 2A ctd.

## Occupying the rental unit

- Means using the rental unit as living accommodation
- Does not include leaving the unit empty (except in extenuating circumstances?)
- Must “live there” for at least 6 months to meet s.51(2) requirement
- Can include a landlord who wants to expand their own living space - eg a landlord who lives on the main floor of a house can issue an NTE to a tenant living in the basement, if the landlord wants the basement as part of their living space

# Policy Guideline 2A ctd.

## Consequences for not using the property for the stated purpose

If a tenant can show that a landlord (or purchaser) who ended their tenancy under section 49 of the RTA has not:

- taken steps to accomplish the stated purpose for ending the tenancy within a reasonable period after the effective date of the notice to end tenancy, or
- used the rental unit for that stated purpose for at least six months beginning within a reasonable period after the effective date of the notice

the tenant may seek an order that the landlord pay the tenant additional compensation equal to 12 times the monthly rent payable under the tenancy agreement. Under section 51(3) of the RTA, a landlord may only be excused from these requirements in extenuating circumstances.

# Policy Guideline 2B

## Permits and approvals required by law

- The landlord must have all necessary permits and approvals required by law before they can serve a 4 month NTE
  - The permits or approvals “must cover an extent and nature of work that objectively requires vacancy”
- If a permit cannot be obtained because other conditions have to be met first, the landlord should provide evidence of the policy or procedure that establishes those conditions and “show they have completed all steps possible prior to obtaining vacancy”
- If a landlord takes the position that they do not need permits for the work, they must provide evidence of that
- Permits and approvals required by law can include strata bylaw requirements or changes / exemptions from zoning or municipal bylaws where applicable

# Policy Guideline 2B ctd.

## Good faith requirement

- Similar to 2A - honest intention with no ulterior motive, not trying to avoid obligations under the RTA
- If the landlord's intent is to re-rent the unit for higher rent without carrying out renovations or repairs that require the unit to be vacant, that would be bad faith
- If there is evidence that the landlord has issued such NTEs in the past without following through with the stated purpose, that could be evidence of bad faith
- If permits are not required it may indicate that the landlord does not intend in good faith to renovate in a manner that requires vacancy
- Onus is on the landlord

# Policy Guideline 2B ctd.

## Demolition

- Means the complete and irreversible destruction of the rental unit
- Usually involves the destruction of the building where the rental unit is located, but not always
- May involve partial destruction of a building such that the rental unit no longer exists
- No right of first refusal

# Policy Guideline 2B ctd.

## Renovations or repairs that require vacancy

- Vacancy requirement: Are the renovations or repairs “objectively” such that they require vacancy?
  - Where the unit needs to be vacant for an extended period, it may not be enough that a tenant is willing to vacate temporarily
- May include renovations or repairs that would make it unsafe for the tenant to live there or to lose essential services for a prolonged period
- Cosmetic renovations and renovations that cause an intermittent disruption in services don't usually require vacancy
- Appendix A
  - Examples of common renovations/repairs and how likely they are to require vacancy

# Policy Guideline 51 - Expedited Hearings

## When does the RTB schedule an expedited hearing?

- Generally, where it would be “unfair” for the applicant to wait the normal amount of time (minimum 22 days)
- Specifically, applications made under sections 33, 54, and 56 of the RTA are automatically considered for expedited hearings
- Applications outside of those three sections may in rare circumstances be considered

## Timing

- 12 days after application is made
- 6 days in “extremely urgent” cases

# Policy Guideline 51 ctd.

## Emergency Repairs

- Major leaks in pipes or roof
- Damaged or blocked water pipes, sewer pipes or plumbing fixtures
- Primary heating system
- Damaged locks that give access to the unit
- Electrical systems

If a tenant performs emergency repairs themselves and is seeking compensation, they cannot apply for an expedited hearing.

# Policy Guideline 51 ctd.

## Order of Possession for the Tenant

- A tenant may apply for an OP because they've been locked out or because they've entered into a tenancy agreement and the landlord subsequently refused to give the tenant access to the unit
- A tenant will likely not be able to obtain an OP where the unit has been occupied by another tenant
- The tenant must prove a tenancy agreement exists

# Policy Guideline 51 ctd.

## Early end of tenancy

- Landlord applications under section 56 of the *RTA*
- “For very serious breaches only”
- The landlord must prove the tenant has committed the serious breach and that it would be unreasonable or unfair to the landlord or other occupants to wait for a one month NTE to take effect

# Policy Guideline 51 ct.

## Serving documents

- Hearings scheduled 6 - 11 days after the application is made
  - In person
- Hearings scheduled 12 - 16 days after the application is made
  - In person
  - Attaching to the door or other conspicuous place
- Hearings scheduled 17 days or more after the application is made
  - In person
  - Attaching to the door or other conspicuous place
  - By registered mail
- Applicant must complete RTB Form 9: Proof of Service - Notice of Expedited Hearing

# Other updated Policy Guidelines

- PG 27 - Jurisdiction
- PG 30 - Fixed Term Tenancies
- PG 32 - Illegal Activities
- PG 39 - Direct Requests
- PG 42 - Digital Evidence
- PG 47 - Access to Information
- PG 50 - Compensation for Ending a Tenancy

# Amber's Housing Updates

# Outline

1. OIPC Guidance for Landlords
2. *S.A. v. MVHC*
3. *Potter v. Vancouver East Co-operative Housing Association*

IR P18-01: *Always, sometimes, or never?*  
*Personal information and tenant screening*

OIPC Report, March 22, 2018

See:

<https://www.oipc.bc.ca/investigation-reports/2141>

# Why did OIPC launch investigation of collection of info by landlords?

“My office receives several calls each week from individuals who have been asked by potential landlords for sensitive personal information including medical data, T4 slips, or copies of bank statements.

Low vacancy rates in Victoria & Vancouver create a significant power imbalance in favour of landlords, so renters are reluctant to assert their privacy rights & jeopardize their housing options.” Drew McArthur, Acting Information & Privacy Commissioner

See: <https://www.oipc.bc.ca/news-releases/2064>

- Landlords are **always** authorized to collect information that clearly relates to & is reasonable for the purpose of assessing prospective tenants, such as references & contact information.
- Consent is not required to collect personal information from publicly available sources prescribed by PIPA. However, landlords must notify applicants if they intend to consult these sources without the applicant's consent.

- Personal information that can **sometimes** be collected includes a prospective tenant's age; proof of income/employment; & credit history information /credit score.
- Authority to collect this information depends on the context & whether the information that can always be collected is lacking or unavailable.

E.g., a landlord can ask for the age of a prospective tenant when the rental property is restricted to people 55+.

Credit checks can only be required when an applicant is unable to provide satisfactory references, or employment or income verification.

Some personal information can **(almost) never** be collected as it is too sensitive or unrelated to the purpose of collection.

This includes information protected under the *Human Rights Code*; whether the prospective tenant is a smoker; & information collected from internet search engines & social media platforms.

The investigation does not apply the always, sometimes, or never guidelines to not-for-profit landlords, as these organizations provide a special type of housing & an individual's suitability for tenancy will depend on the purpose & type of housing being offered. However, these organizations are limited to collecting only the personal information that is reasonable in the circumstances.

*S.A. v. Metro Vancouver Housing Corp.*,  
2019 SCC 4 (CanLII), <http://canlii.ca/t/hx61p>

- Landlord treated tenant's discretionary trust as the tenant's asset which could affect her housing subsidy
- A tenant does not have any actual entitlement under a discretionary trust
- Therefore the tenant's interest in the trust is not an asset that could disqualify her from being considered by MVHC for a rent subsidy

*Potter v Vancouver East Cooperative  
Housing Association, 2019 BCSC 871  
(CanLII), <http://canlii.ca/t/j0s73>*

- Co-op members brought an action against the Co-op per [s. 156](#) of the *Cooperative Association Act*.
- S. 156 allows a Co-op member to bring a Court action against a Co-op for oppressive or unfair actions.
- The members challenged Co-op policies that prioritized overhoused members (i.e. members with extra bedrooms) instead of members who did not have sufficient bedrooms to meet their housing needs (under-housed members).

## *Potter v Vancouver East Cooperative Housing con't*

[162] The Board's practice to not require over-housed households to accept appropriately sized units when they become available is "a breach of the petitioners reasonable expectations regarding the equitable and even-handed enforcement of the Board's policies."

[163] The practice is "unfairly prejudicial to all members that are under-housed."

[164] Co-op policies should be "informed & implemented in accordance with the values & mandate of the Co-op 'to provide sustainable and affordable housing' to its members."

[168] Failing to ensure the movement of over-housed units frustrates the mandate of the Co-op.

# Case Law Update

**“Renovictions”: *Baumann v Aarti Investments Ltd.*, 2018**  
**BCSC 636**

**VACANT POSSESSION**

Court found the following:

Arbitrator failed to consider Ms. Baumann’s offer to vacate the rental unit for the duration of the repairs.

The rationale behind s 49(6) of the *RTA* is to ensure landlords can carry out renovations. Terminating a tenancy where the tenant is agreeable to vacating for the duration of the renovations is inconsistent with this rationale.

**“Renovictions”: *Baumann v Aarti Investments Ltd., 2018*  
BCSC 636**

**GOOD FAITH REQUIREMENT**

Court found the following:

Arbitrator fell into error and neglected to properly apply the burden of proof on the landlord to establish good faith.

The evidence and context was more than sufficient to raise the issue of good faith. The arbitrator failed to properly come to terms with the requirement to address the issue of good faith.

# **“Renovictions”: *Baumann v Aarti Investments Ltd.*, 2018**

## **BCSC 636**

### **PERMITS**

Court found the following:

Landlord did not have all the necessary permits for the work to be carried out.

The requirement for “all” the necessary permits is not satisfied by obtaining “some” of the necessary permits.

**“Renovictions”: *Aarti Investments Ltd. v Baumann, 2019***  
**BCCA 165**

**VACANT POSSESSION**

BCCA Panel disagreed with the Chambers Judge:

Neither precedent nor common sense require the arbitrator to expressly deal with the evidence that the tenant in this case was willing to find alternate accommodations for the duration of the work.

**“Renovictions”: *Aarti Investments Ltd. v Baumann, 2019***  
**BCCA 165**

**GOOD FAITH REQUIREMENT**

BCCA Panel agreed with the Chambers Judge:

While the Arbitrator found the landlord “truly” intended to do the renovations described in the evidence, he did not expressly address the tenant’s evidence of an ulterior motive.

Arbitrator had erroneously required the tenant to prove the landlord acted in bad faith.

**“Renovictions”: *Aarti Investments Ltd. v Baumann, 2019***  
**BCCA 165**

**PERMITS**

BCCA Panel agreed with the Chambers Judge:

The landlord had the permits and approvals required by law to do some, but not all, of the work it contemplated.

An arbitrator cannot waive or ignore the statutory requirement by issuing an order of possession if the landlord is not authorized and permitted to conduct work that will necessitate obtaining vacant possession at the time they issue the notice to end tenancy.

## **Unable to Attend the Hearing: *M.B.B. v Affordable Housing Charitable Society, 2018 BCSC 2418***

In regards to the **RTB Review Division Decision**, the Court found the following:

Arbitrator failed to address M.B.B.'s assertion that she misunderstood the hearing instructions.

Arbitrator's assertion that M.B.B. should have sought clarification in advance of the hearing was not the answer. M.B.B. did not assert she was confused, rather she thought she knew what to do.

## **Unable to Attend the Hearing: *M.B.B. v Affordable Housing Charitable Society*, 2018 BCSC 2418**

In regards to the **Original RTB Decision**, the Court found the following:

Rule 7.3 of the RTB's Rules of Procedure empowers an arbitrator to dismiss an application when a party failed to attend a hearing.

Rule 7.3 of the RTB's Rules of Procedure does not empower an arbitrator to dismiss an application to cancel a notice to end tenancy without considering whether the statutory criteria to end a tenancy have been met.

It is insufficient to dismiss the application solely on the grounds that an applicant did not attend the hearing.

## **Tenant's Compensation: *Schuld v Niu*, 2019 BCSC 949**

Landlord issued a 2 month Notice to End Tenancy to move a close family member into the rental unit.

Arbitrator found that the landlord's intention to demolish the premises and utilize the premises for construction of another residence was sufficient to end the tenancy.

Court found that the arbitrator chose to expand the definition of the word "occupy" in s 49(3) of the *RTA* (close family member) so that it encompassed s 49(6) of the *RTA* (demolition). This interpretation is not in the proper legal context.

RTB Policy Guideline 2A: Ending a Tenancy for Occupancy by Landlord, Purchaser, or Close Family Member references this decision and states that it stands for the proposition that "occupy" means "reside".

## **Interpretation: *Suri v Vahra*, 2018 BCSC 675**

Landlord's testimony interpreted by his son-in-law. Tenant raised the issue of bias and that the interpretation was inaccurate.

The Court found the following:

No breach of procedural fairness in the decision of the arbitrator to permit the interpreter to assist the landlord at the hearing in order to make his presentation.

There is no requirement that the assistant chosen by the landlord to fulfill that function, be at arm's length to the landlord, or that he even have a high level of proficiency in both languages.

A denial of procedural fairness occurs when the interpreter's role crossed over to interpreting the landlord's testimony to the arbitrator.

## **Interpretation: *Suri v Vahra*, 2018 BCSC 675**

Limited proficiency in Punjabi, coupled with his personal relationship to the landlord, raises a real question as to whether the evidence upon which the arbitrator relied in making his decision that the landlord acted in good faith, was an accurate interpretation of the landlord's evidence.

Where an arbitrator relies on the testimony of a party to make findings of credibility, it is incumbent on the arbitrator to take the steps to ensure that the interpretation on which the arbitrator relies is accurate and free from any bias, particularly where bias or competence of the interpreter are raised as a concern.

## **Adequacy of Reasons: *Marshall v Pohl*, 2019 BCSC 406**

The Court found the following:

The arbitrator summarized the evidence and submissions of the parties but makes no findings of fact about which incidents actually occurred, beyond the general statement that there were “multiple incidents”.

The Arbitrator does not address the petitioner’s explanation and denial of some of the complaints or explain why the evidence of the landlord was apparently preferred.

The arbitrator does not explain which incidents, either individually or cumulatively, met the statutory standard of a “significant interference” or an “unreasonable disturbance”.

# Residential Tenancy Branch Compliance and Enforcement Unit



## COMPLIANCE AND ENFORCEMENT

### UNIT STEPS:

- Citizen completes complaint intake form -with all evidence
- Compliance and Enforcement Unit assess complaint; determines if it meets criteria, may conduct investigation
- Unit informs subject of complaint of the allegations against them.
- Issues advisory or warning; educates and inform the subject about their responsibilities
- Monitors for compliance
- Review
- Administer penalty/fine

### KEY INFORMATION

- The Compliance and Enforcement Unit (CEU) is **not** an alternative to the Residential Tenancy Branch information and dispute resolution services nor to existing mechanisms to enforce orders through the courts.
- The unit will conduct investigations of repeated or serious and deliberate non-compliance with the tenancy laws or with decisions or orders.
- The function of the unit is separate and distinct from information and dispute resolution services.
- The unit has the authority to issue warnings to ensure compliance and if necessary, administer penalties of up to \$5000.00 per day.
- The unit does not take anonymous complaints.
- Members of the public who report an issue to the unit do not receive any portion of any monies collected through this process, nor are they informed about the status of the complaint.

### Compliance and Enforcement Unit Objectives:

- Education and awareness.
- Ensure compliance with tenancy laws.
- Investigation of repeated or serious and deliberate non-compliance with tenancy laws.
- Issue warnings, monitor actions, and issue penalties

### Resources:

- [www.gov.bc.ca/landlordtenant/compliance-and-enforcement](http://www.gov.bc.ca/landlordtenant/compliance-and-enforcement)
- Complaint submission form ([CEU-1](#))
- Policy Guideline 41 – Administrative Penalties (updated)

### Contact information

RTB Compliance and Enforcement Unit  
Email: [HSRTO@gov.bc.ca](mailto:HSRTO@gov.bc.ca)

Greater Vancouver: 604-660-1020  
Victoria: 250-387-1602  
Elsewhere in BC: 1-800-665-8779  
Burnaby office: 400-5021 Kingsway

### Residential Tenancy Branch

Office of Housing and Construction Standards  
#CEU-106 (2019/09)



BRITISH  
COLUMBIA



# **Compliance and Enforcement Unit (CEU)**

**Residential Tenancy Branch of  
British Columbia**



# Agenda

- Rental Environment
- Administrative Penalties
- Director's Authority
- Our Process
- Working Together
- Resources





# Rental Environment

- BC has more than 1.5 million renters
- Landlords and tenants have choices
- The RTB hears approximately 20,000 disputes per year





# Administrative Penalties

- Separate and distinct from dispute resolution
- Administered by the Compliance and Enforcement Unit
- Compliance, deterrence and education, not punishment





# Director's Authority

- Order an investigation
- Issue Warnings
- Levy Administrative Monetary Penalties
- Publish Decisions
- Refuse Services
- Compel Documents





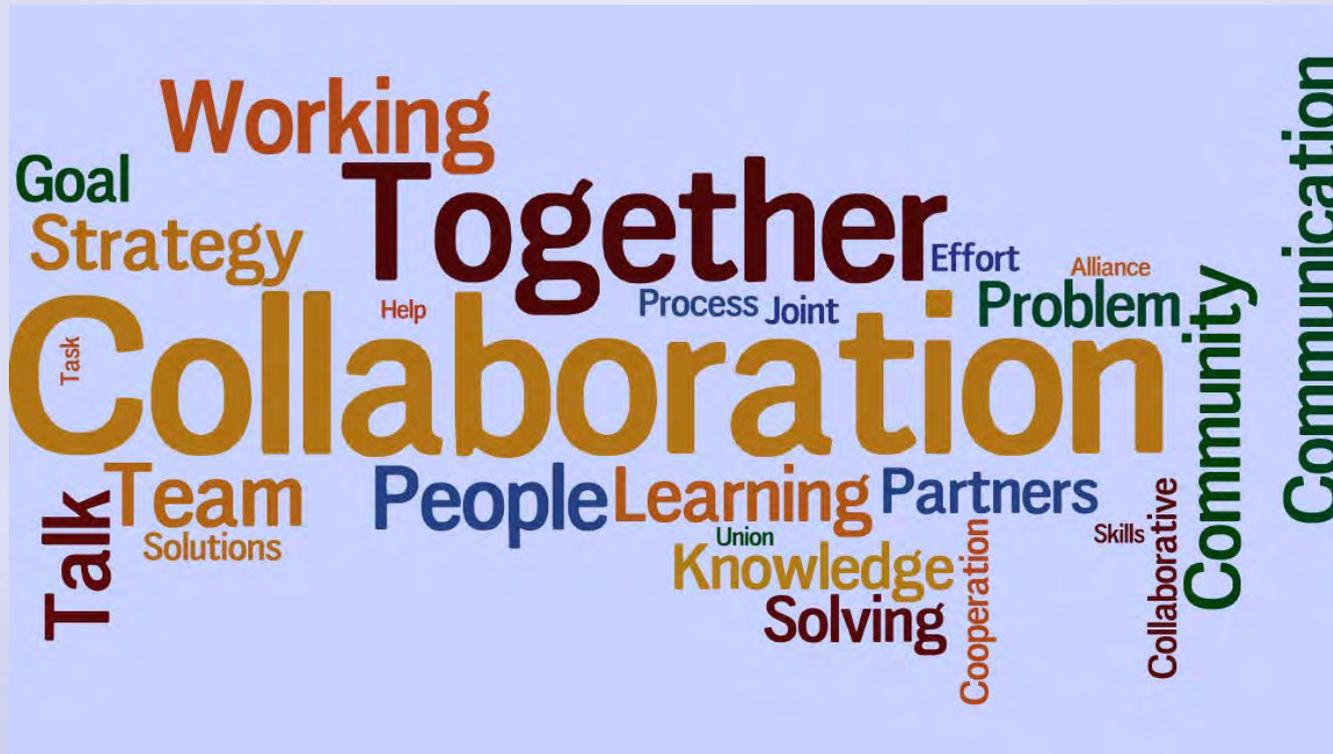
# Process

1. Intake
2. Assessment
3. Investigation
4. Warning
5. Opportunity to be heard
6. Outcome





# Working Together





# CEU current status

- Collection and use of metrics to inform decisions
- Time-lines for investigations
- Managing expectations



BRITISH  
COLUMBIA



**Thank you...any  
questions?**

# WRITS OF POSSESSION AND BAILIFFS

Kevin Love  
Community Legal Assistance Society  
October 16, 2018



# HOW IS AN ORDER OF POSSESSION ENFORCED?

- The OP is served on the tenant.
- The OP is filed in BCSC.
- The landlord obtains a Writ of Possession.
- The landlord hires a bailiff.
- Bailiff executes the writ.

# KEY POINTS

- Landlord (generally) does not need to go before judge. Just swears affidavit.
- BSCS registry does not verify landlord's info.
- Bailiffs generally do not question a writ.

# TIMING PROBLEMS

- Landlords ignore deemed service rules under RTA.
- Landlords apply for writ before order is served.
- Landlords apply for writ before review time limit actually expires.
- Deemed date of service or receipt can be rebutted.
- Tenants can obtain extensions of time for review.

# SOLUTIONS?

- Not many good ones.
- Plan in advance for a negative decision.
- Remind clients that 2 day OPs are the norm. Short deadline for review.
- Notify landlord in writing of review consideration.
- Notify landlord of date OP was actually received.
- Check the BCSC registry daily.
- Call bailiffs (though often unhelpful).

# BUT... MORE PROBLEMS

- Tenants usually (but not always!) lose on review anyway.
- Bailiffs at door might be first time you find out about problem.
- Once tenant is out, its often hard and pointless to get them back in.
- Damages can be complicated.

# PROBLEMS RELATING TO OLD OPs

- OPs do not expire.
- Landlords often hold on to old OPs as leverage after tenancy reinstated.
- Sometimes RTB will make “contingent OPs”, especially in settlements.
- Balance: we do want landlords to consider bargains for more time.

# SOLUTIONS?

- Make settlements very clear.
- If settling at RTB hearing, resist “contingent” OPs.
- Apply for tenant’s OP, using expedited hearing if possible (PD #51).
- In urgent cases, consider referring for a stay.

# BUT... MORE PROBLEMS

- If you call out landlord, they may just enforce quickly.
- Can set up a race to the BSCS registry, which the landlord usually wins.

# WHO CAN ENFORCE AN OP?

- Only designated court bailiffs.
- Check the list of companies in your area.
- Beware of “landlord’s agents” that pose as bailiffs.

# HOW TO TELL A REAL BAILIFF

- Ask what company they are from.
- Ask for ID.
- Look up bailiff companies in your area.  
<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/bailiffs>
- Do they have a filed Writ? Or just an OP?

# WHAT BAILIFFS DO

- Turn possession of unit over to landlord.
- Remove tenant's stuff.
- Try to get tenant to deal with their stuff.
- If tenant cannot deal with stuff, should put into storage.
- Will pack and itemize belongings.
- Inform tenants about exemptions.
- Will use a bunch of related services (movers, locksmiths).

# COURT ORDER ENFORCEMENT EXEMPTION REGULATION

- \$4,000 for household furnishings and appliances.
- \$5,000 for one motor vehicle (\$2 000 if a maintenance debtor)
- \$10,000 for tools and property used to earn income.
- Rarely is there anything worth selling.
- Bailiffs generally pose less risk to tenants' stuff than rogue landlords and theft.

# TIPS FOR DEALING WITH BAILIFFS

- Obstructing a legitimate bailiff is unproductive.
- Is getting to Court for a stay realistic?
- Or is damage control more productive?
- Grab critical items.
- Consider items of value that bailiff may not appreciate.
- Get help quick. Someone to watch stuff. Help move critical items.

# GETTING TENANTS STUFF BACK

- Should release all items below exemptions.
- Will sometimes try to make tenants pay if taken into storage.
- Generally hate “in and outs” of warehouse.
- Private storage facilities may have separate right to sell if bill unpaid.
- Landlords can claim against tenant for bailiffs and related fees.

**QUESTIONS?**

## **RESIDENTIAL TENANCY ACT**

### **WRIT OF POSSESSION PACKAGE**

If you have received an Order of Possession from the Residential Tenancy Branch and wish to have the order enforced by the Supreme Court, section 84 of the *Residential Tenancy Act* permits the order to be filed in the Supreme Court and enforced as a judgment or an order of that court.

#### **Director's orders may be filed in Supreme Court**

**84** (1) A decision or an order of the director may be filed in the Supreme Court and enforced as a judgment or an order of that court after

(a) a review of the director's decision or order has been

(i) refused or dismissed, or

(ii) concluded, or

(b) the time period to apply for a review has expired.

(2) Subsection (1) applies whether the decision or order is interim, temporary or final.

Supreme Court Civil Rule 2-2 - Tribunal Awards, sets out the procedures for these applications.

### **RULE 2-2 - TRIBUNAL AWARDS**

#### **Definition**

- 1) In this rule, “**tribunal award**” means any order, decision, judgment or other determination that, under an enactment, may be filed or registered in the court for enforcement purposes.

#### **Tribunal awards may be filed**

- 2) A tribunal award may be filed in a registry.

#### **Filing tribunal awards**

- 3) To file a tribunal award under subrule (2), a certified copy of the tribunal award must be attached to a requisition in Form 17.2 and the requisition must be filed.

The Residential Tenancy Branch website provides information about enforcing an order of possession.

(<http://www2.gov.bc.ca/gov/topic.page?id=17E98CF3396E48B19C1F483DC1B7BAB6>)

Supreme Court Civil Rule 13-2 – Enforcement of Orders includes a provision for issuance of a writ of possession. (Rule 13-2(3)). Pursuant to Supreme Court Civil Rule 13-2(13)(b) a writ of possession must not be issued unless there has been filed proof satisfactory to a registrar that;

- (b) in the case of a document, issued under an enactment, that on being filed in the court may be enforced as if it were an order of the court, the document
  - (i) has been filed in the court,
  - (ii) has, before or after being filed in the court, been served in accordance with the enactment or these Supreme Court Civil Rules on the person against whom the order is sought to be enforced, and
  - (iii) has not been complied with.

The *Residential Tenancy Act* Part 6 – General Matters, Division 1 – How to Give or Serve Documents sets out the requirements for service and when documents are considered to have been received. A link to all of BC Statutes may be found on the Court's website at [www.courts.gov.bc.ca](http://www.courts.gov.bc.ca) or by accessing the following link; <http://www.bclaws.ca/>.

The filing fee in Supreme Court for a writ of possession is \$80.00. If you require any affidavits sworn at the court registry, the fee for swearing an affidavit at the court registry is \$40.00.

A writ of possession issued by the Supreme Court must be enforced by a Court Bailiff. The claimant (landlord) will need to make arrangements with one of the Court Bailiffs and advise the Court Registry which bailiff they have chosen to enforce the writ of possession. The claimant should inquire directly with the various Court Bailiffs as to their fees.

The documents included in this package are:

- 1) Requisition – Form 17.2
- 2) Writ of Possession – Form 52
- 3) Affidavit of Service (RTA)

Court File No.: .....  
Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

**REQUISITION**

**Filed by:** .....  
*[party(ies)]*

Required: the filing of the attached tribunal award made under the .....  
*[Name of Act]*

**My address for service is** *[set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Address for service: .....  
.....  
.....

Fax number address for service (if any):

E-mail address for service (if any):

Dated: .....

.....  
Signature of  
 filing party  lawyer for filing party(ies)

.....  
*[type or print name]*

Court File No.: .....  
Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

**WRIT OF POSSESSION**

Name and address of lawyer or person causing this writ to be issued:

.....  
.....

*To the Sheriff:*

WHEREAS it was ordered, on ....., that

- the respondent ....., deliver to the claimant  
....., possession of  
.....  
(the "land");

YOU ARE COMMANDED promptly to enter the land and cause .....  
to have possession of it;

YOU ARE COMMANDED promptly to seize and sell at public auction or tender for the best price  
available sufficient of the goods and chattels of .....  
to realize the claimant's costs, fees and expenses of execution and the costs, fees and expenses for  
executing this writ.

Dated: .....

.....  
Registrar

Court File No.: .....  
Court Registry: .....

*In the Supreme Court of British Columbia*

Claimant:

Respondent:

## AFFIDAVIT

I, ..... of .....  
..... [occupation], make oath/affirmation as follows:

1. That, on the .....day of .....in the year ..... at  
..... o'clock  AM  PM, I did serve the Respondent,  
..... with a copy of the attached order for possession of  
residential property/manufactured home site here unto marked Exhibit A to this  
my affidavit by:
  - Leaving it with the respondent at .....
  - Sending it registered mail to the respondent's residence at .....
  - Sending it regular mail to the respondent's residence at .....
  - Leaving it with an adult whom apparently resides with the respondent
  - Leaving it in the mailbox or mail slot at the respondent's residence at .....
  - Attaching it to a ..... at .....
  - Faxing it to the respondent's address for service at .....
  - Serving it as directed on the Order by .....
2. That the time for filing for review under section 80 of the *Residential Tenancy Act* or  
section 73 of the *Manufactured Home Park Tenancy Act* has passed.
3. That I contacted the Residential Tenancy Branch after the time for filing for review had  
passed and confirmed that no application for review of the director's decision or order  
was filed.

or

That I have received a written decision stating that the application for review of the director's decision or order has been refused, dismissed, or concluded with the original decision and order being confirmed.

- 4. That the order for possession was not suspended under section 81(3) of the *Residential Tenancy Act* or section 74(3) of the *Manufactured Home Park Tenancy Act*.
- 5. The respondent has not obeyed the order and has not delivered vacant possession of the residential property/manufactured home site.

SWORN (AFFIRMED) BEFORE )  
 ME at ..... )  
 in the Province of British Columbia, this ..... )  
 day of ....., 20..... )  
 )  
 ..... )  
 A Commissioner for taking Affidavits )  
 in the Province of British Columbia )

.....  
 signature of deponent



Court File No.: 010101  
Court Registry: NEW WESTMINSTER

*In the Supreme Court of British Columbia*

**WRIT OF POSSESSION**

Name and address of lawyer or person causing this writ to be issued:

Bill Jones  
1234 ABC Street, Vancouver

*To the Sheriff:*

WHEREAS it was ordered, on December 25, 2018, that  
 the respondent, Don Smith, deliver to the claimant  
Bill Jones, possession of  
1234 ABC Street Vancouver, BC (the "land");

YOU ARE COMMANDED promptly to enter the land and cause Bill Jones  
to have possession of it;

YOU ARE COMMANDED promptly to seize and sell at public auction or tender for the best price  
available sufficient of the goods and chattels of Don Smith to realize  
the claimant's costs, fees and expenses of execution and the costs, fees and expenses for executing  
this writ.

Dated: December 31 2018

  
Registrar

Disclaimer: This is a made up sample and is not a real residential Tenancy Branch Order.

# ORDERS OF POSSESSION AND BAILIFFS

Emily Rogers and Kevin Love

## PRESENTATION OUTLINE

- What is an Order of Possession
- When is an Order of Possession granted
- Service of an Order of Possession
- Strategies when encountering an Order of Possession

# WHAT IS AN ORDER OF POSSESSION?

- Formal document issued by the Residential Tenancy Branch
- Designates which party has legal possession of the rental unit
- Enforceable in Supreme Court of British Columbia
  - RTB does not enforce orders.
- There are rules when it comes to the authority of the landlord to remove a tenant and their possessions

# WHEN IS AN ORDER OF POSSESSION GRANTED?

## **Order of Possession for the Tenant (s. 54):**

- Tenant's application for an Order of Possession
  - Illegal eviction

## **Order of Possession for the Landlord (s. 55):**

- An eviction notice is upheld in a hearing
- A tenant has given a notice to end tenancy or has applied to end the tenancy early
- A notice to end tenancy was given by the Landlord and the notice was not disputed
- A tenancy is frustrated

# Service of Orders of Possession

Method of service	Considered received
In person	Same day
By regular or registered mail	Five days later*
Mailbox or mail slot at address where person lives	Three days later*
Fax	Three days later*
Slide a copy under the door	Not considered served
Email or text message	Not considered served

\*unless the person receives it earlier

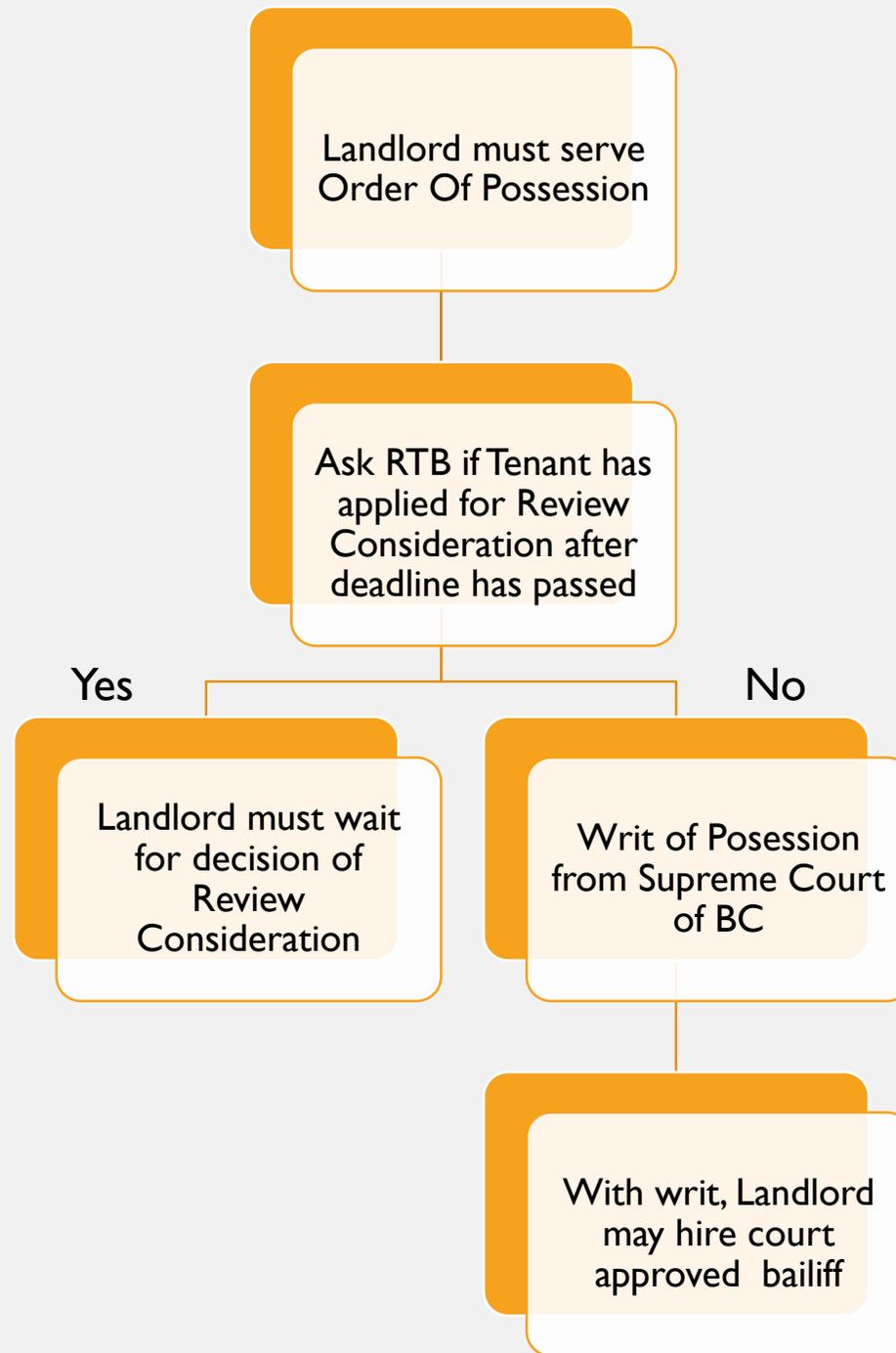
## OPTIONS: OVERVIEW

- Accept Order and move out
- Negotiate with Landlord
- Apply for internal RTB review process
  - Clarification, correction
  - Review Consideration
- Judicial Review

# NEGOTIATION WITH LANDLORD

## Discussion:

- What strategies have you used that were successful?
- What strategies have you tried that didn't work as well as you might have liked?



## REVIEW CONSIDERATION

### Eligible grounds:

- You were unable to attend the RTB hearing due to circumstances that were beyond your control;
- You have new and relevant evidence that was unavailable at the time of the RTB hearing; or
- The original decision or order was obtained by fraud and you have evidence that proves the fraud.

See Policy Guideline 24

## REVIEW CONSIDERATION

- Default review period is two days after being served with Order
- Arbitrator has the discretion to change the review period
- Order of Possession on hold until decision is reached
- Best practice: alert Landlord that a Review Consideration request has been filed
- Decision can come down at any time

# JUDICIAL REVIEW

## Timeline:

- 60 days from date of decision

## Eligible grounds:

- Procedural fairness errors in hearing
- Substantive errors in decision
- Must apply for stay of eviction until judicial review is heard

## CASE STUDY

A client calls you, panicked, because they have just been removed from their home by bailiffs. They are extremely confused because they applied for Review Consideration last week and were told by the RTB that they were safe from removal until a decision was reached.

What do you do?

# BC Housing Women's Transition Housing & Supports Program

Law Foundation Conference

Oct 10, 2019

## WTHSP Program Overview

BC Housing provides support to [Transition Houses, Safe Homes and Second Stage Housing Programs](#) for women — with or without children — who have experienced violence or are at risk of experiencing violence. The programs provide women and children with a temporary place to stay, support services, referrals and assistance in planning next steps.

# WTHSP Program Overview

- **TRANSITION HOUSES (66)**

- Provide access to support services & safe shelter (typically no longer than 30 days)
- 24/7 staffed
- Meals and immediate basic needs
- Crisis intervention, emotional support, safety planning, referrals

- **SAFE HOMES (25)**

- Provide access to support services & safe, short term shelter ( typically no longer than 10 days)
- In rural/remote communities
- Shelter = hotel/motel, apartment rental, private home
- Outreach services, transportation to a TH

- **SECOND STAGE HOUSING (18)**

- Provide safe, affordable short-term housing with support services
- Referrals often from Transition House or Safe Home programs
- Assist women to move on to independent living

## WTHSP - Provincial Overview

In 2018/19 the annual budget was approximately **\$38.2 million to support approx. 900 WTHSP spaces.**

Programs are delivered by 70 Non Profit Providers throughout 75 communities.

Region	WTHSP Spaces (TH, SH & SS)
Lower Mainland	approximately 379
Interior Region	approximately 192
Northern Region	approximately 175
Vancouver Island Region	approximately 151

# WTHSP Webpage for Women Fleeing/At Risk of Violence



[Housing Assistance](#) ▾

[Projects & Partners](#) ▾

[Licensing & Consumer Services](#) ▾

[Research Centre](#) ▾

[Home](#) / [Housing Assistance](#) / [Women Fleeing Violence](#) / [Transition Houses & Safe Homes List](#)



## Transition Houses & Safe Homes List

[← Share](#)

[Contact Details](#)

Find and contact a transition house or safe home near you.

[Exit Now](#)

**If you are in immediate danger:**

- Call 911 and ask for the police, or call your community police.
- Call [VictimLink BC](#) at 1-800-563-0808.
- Use the list below to find a transition house or safe home near you and call them.

Learn more about the [Women's Transition Housing & Supports Program](#).

**Search for a transition house or safe home in B.C.**

Start your search by typing in one of the keywords (ie. Victoria or Safe Home) into the search bar below. For phone numbers, use a hyphen between the numbers. To start a new search just clear the information out of the search bar and begin again.

**Note:** The \* symbol indicates a 24-hour access line.

[Women Fleeing Violence](#)

[Women's Transition Housing and Supports Program](#)

[Get Help](#)

**[Transition Houses & Safe Homes List](#)**

[Second-Stage Housing Providers List](#)

[Priority Placement Program](#)



# WTHSP – Second Stage Housing

## Second-Stage Housing Providers List

Second-stage housing assists women who have left abusive relationships make plans for independent living.

Exit Now

### Search for second-stage housing in B.C.

Start your search by typing in one of the keywords (ie. Victoria or Munroe House) into the search bar below. For phone numbers, use a hyphen between the numbers. To start a new search just clear the information out of the search bar and begin again.

**Note:** The \* symbol indicates a 24-hour access line.

Women and their children can typically stay in second stage housing for 6-18 months.

Filter by keyword

Community ↕	Organization ↕	Program Name ↕	Contact ↕
Abbotsford	<a href="#">SARA for Women Society</a> 	Christine Lamb Residence	604-746-4200 <a href="#">email</a>
Burnaby	<a href="#">Dixon Transition Society</a> 	Wenda's Place	* 604-298-6046 <a href="#">email</a>
Chilliwack	<a href="#">Xolhemet Society</a> 	Xolhemet Second Stage	* 1-888-558-0468 604-824-0939 <a href="#">email</a>

## Building BC: Women's Transition Housing Fund

- \$141 million over three years and \$743 million investment over 10 years to build 1,500 spaces for women and children who have experienced violence/or at risk of violence
- EOI - **75 submissions** from across the province - primarily SS and permanent, affordable housing, specialized programs
- Target communities identified based on submissions, current WTHSP programs, need & demand and the program review
- October 2018 the first announcement was made for 12 new programs across the province

## Homeless Prevention Program (HPP)

- Provides portable rent supplements and support services to help individuals/families access rental housing in the private (non-subsidized) housing market
- Targeted for populations at risk of homelessness:
  - **women who have experienced violence or are at risk of violence (345 RS WTHSP)**
  - youth transitioning out of foster care or at risk
  - people leaving the correctional and healthcare systems
  - Indigenous individuals and families

## Homeless Prevention Program (HPP)

- Annual budget WTHSP Providers: **\$3.38 million**
- **23 HPP programs** funded through WTHSP providers
- Rent Supplements
  - At least **300 Rent Supplements** available through WTHSP providers each month
- FTEs funded through WTHSP Providers: **9.75**

## Priority Placement Program

- Priority Placement Program provides priority access to the Housing Registry for women in BC who have experienced violence or are at risk of violence
- A BC Housing application form along with a supplemental application form
- Supplemental application form is required to be completed by a third party verifier

## Priority Placement Program

- Priority Placement Coordinator works in the Lower Mainland area and with DM BCH developments
- Assesses women/families for units and provides ongoing support as needed
- Follows up and provides supports for existing tenants who may be experiencing violence

## Questions???

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**Sairoz Sekhon** – Manager, Women’s Transition Housing and Supports Program  
[ssekhon@bchousing.org](mailto:ssekhon@bchousing.org)



BC Society of Transition Houses



# Who We Are

The BC Society of Transition Houses is a member-based, provincial umbrella organization. We support anti-violence workers providing support services and programs for women, children and youth experiencing violence. BCSTH Mission is to work collectively to respond to, prevent and end VAW & children.

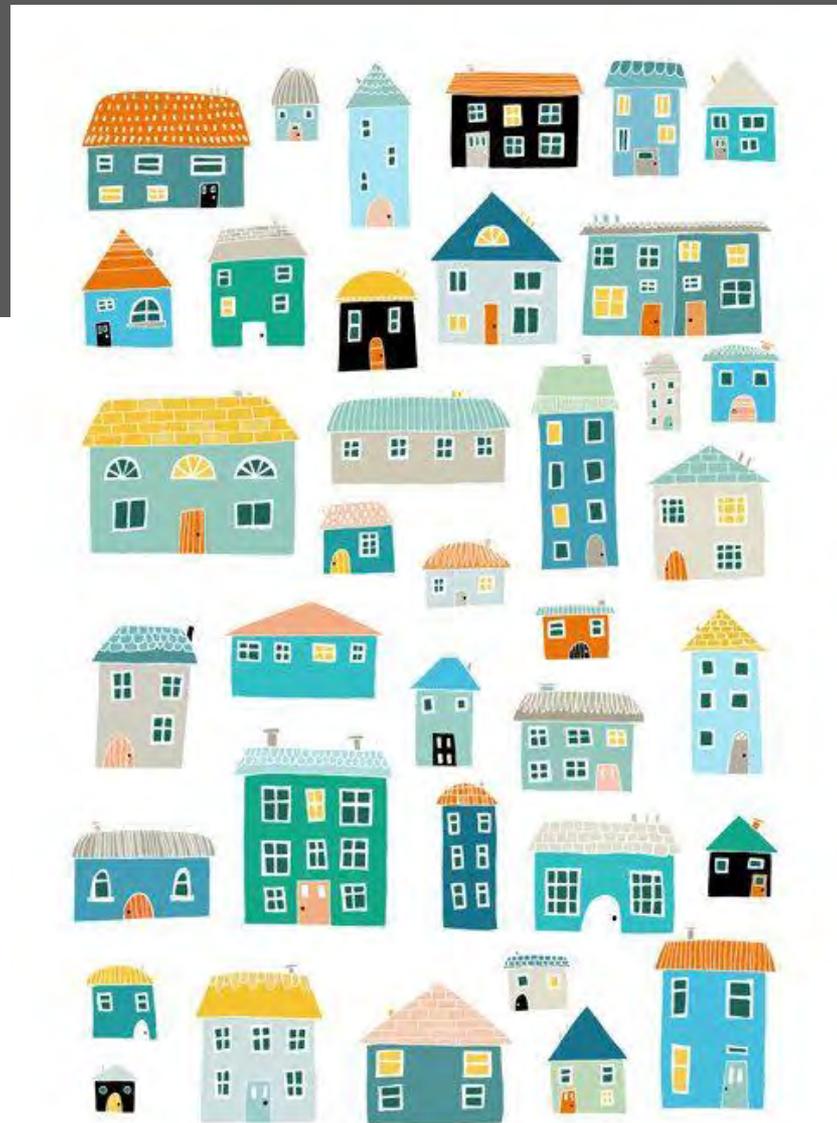


BC Society of Transition Houses

# Who We Support

We provide support to Transition, Second and Third Stage Houses, Safe Homes and Prevention, Education, Advocacy, Counselling and Empowerment (PEACE) and Violence is Preventable programs.

We currently have 108 members and support over **121 housing** and **86 PEACE programs** throughout British Columbia.



Public Awareness Campaign:

“You are not alone”



# Violence Against Women By the Numbers

- Every year in BC year, more than **18,000 women and children** access transition houses, second stage housing and safe homes to escape violence or abuse (Egilson, 2016).
- Across Canada, on a single day **79% of women and children** seeking safe accommodation were turned away due to lack of capacity (Shelter Voices, 2019). Increase since 2016.
- Every year in BC, more than **13,000** people seek police assistance to stop violence at the hands of a current or former spouse or dating partner (Egilson, 2016)
- Domestic Violence is one of the main causes of **homelessness** for CA women and children. (WSC, Homelessness & VAW, 2017)



# BCSTH Projects

- Building Supports
- Reducing Barriers
- Getting Home
- Reaching Out with Yoga
- Cedar Blankets
- Technology Safety
- Legal Toolkit
- PEACE Programs
- Violence is Preventable



# Project:

# Building Supports

## Housing Access for Immigrant and Refugee Women (IRW) Leaving Violence

This project is focused on understanding the barriers to accessing secure and affordable house for IRW leaving violent relationships.

BCSTH developed a promising practices' guide for frontline workers, and policy recommendations that facilitate the removal of barriers to safe, secure, and affordable housing.

**BCNPHA**  
BC Society of Transition Houses  
The FREDA Centre for Research on Violence Against Women and Children

**Building Supports Phase 1**  
Housing Access for Immigrant & Refugee Women Leaving Violence

The Building Supports project is a collaborative three-year project co-led by BC Non-Profit Housing Association, BC Society of Transition Houses and the FREDA Centre for Research on Violence Against Women and Children. The purpose of the project is to understand the barriers in accessing short- and long-term housing for immigrant and refugee women (IRW) leaving violent relationships and to identify practices and policies that can facilitate the removal of barriers to safe, secure and affordable housing. This infographic summarizes the findings from the first phase of the project. The objective of the first phase was to understand the experiences of IRW attempting to secure safe, affordable and culturally appropriate housing after leaving domestic violence.

### RESEARCH

#### DEMOGRAPHICS OF FOCUS GROUP & INTERVIEWS WITH IRW

- 43% Permanent Resident
- 36% Canadian Citizen
- 17% Refugee

- + Originated from 22 different countries
- + Spoke 25 different languages
- + Had been in Canada for 1.5 to 36 years
- + 90% had children (average 2.2)
- + 74% had their children living with them

#### METHODOLOGY

- + Online survey of Transition House and Multi-Service Agencies (n=89)
- + Interviews with Housing Managers (n=15)
- + Focus groups and interviews with women with lived experiences (n=39)
- + Workshop with stakeholders (n=16)

#### KEY THEMES

##### BARRIERS

###### SAFETY

- + Language and cultural barriers
- + Shame and fear of disclosure
- + Lack of familial and community support
- + Lack of knowledge about available services
- + Lack of financial security
- + Limited housing options

###### POLICY

- + Time limits in Transition Houses
- + Income assistance policies
- + Immigration and sponsorship policies
- + BC Housing policies

###### HOUSING

- + Lack of affordable housing
- + Discrimination
- + Misconceptions about Transition Houses
- + Challenges of communal living
- + Long waitlists and inadequate sized units
- + Tenant selection process
- + Inadequate income assistance
- + Lack of support
- + Landlords

##### IMPACTS

- + Physical and Mental Health
- + Risk of homelessness
- + Return to abuser

*"I was in a relationship waiting and living [in] hell because I didn't know that we have all this kind of supports." (Focus group participant)*

# You are not alone

Do you feel unsafe in your home?

Transition Houses offer free support and shelter for women and children.

انتي مش لخالک  
ਤੂੰਸੀ ਇਕਲੇ ਨਹੀ ਹੋ  
تو تنها نیستی.  
妳並不孤單

Make the call.

**1.800.VictimLink**  
**1.800.563.0808**

watch our videos at [www.bcsth.ca](http://www.bcsth.ca)



لا تشعرين بالامان في بيتك؟  
البيوت الانتقالية تقدم المأوى والدعم  
المجاني للنساء واطفالهن

آيا تو، در خانه ات، احساس نامنی می کنی؟  
خانه های "ترنزشن" زن ها و بچه ها را به طور  
رایگان حمایت می کنند و پناه می دهند.

ਕਿ ਤੁਸੀ ਅਪਨੇ ਘਰ ਵਿਚ ਅਸੁਰਸ਼ਿਤ ਮਹਿਸੂਸ ਕਰਦੇ ਹੋ?  
ਟਰਾਂਨਜ਼ਿਸ਼ਨ ਹਾਊਸ ਔਰਤਾਂ ਅਤੇ ਬਚਿਆਂ ਲਈ ਮੁਫਤ ਸੇਵਾਵਾਂ  
ਅਤੇ ਰਹਿਣ ਲਈ ਘਰ ਪ੍ਰਦਾਨ ਕਰਦਾ ਹੈ!

當妳在家時有沒有感到不安全？  
婦幼之家免費提供妳與妳的孩子  
一個安全可靠的避風港。

A multi-lingual public awareness campaign educating the public about what Transition Houses are and how to access them.

Translated in Arabic, Farsi, Punjabi and Mandarin.

Radio & TV PSA, Bus shelters, Interior bus ads, women's washrooms.

[www.bcsth.ca/youarenotalone](http://www.bcsth.ca/youarenotalone)

Project:

# Reducing Barriers

- Women who have experienced violence and who have mental wellness and substance use issues can face restricted access to transition and second stage houses and safe homes.
- As a result, those who are most vulnerable are at increased risk of homelessness and further violence.
- This training explores how to incorporate trauma-informed practices to reduce barriers.

Project:

# Getting Home

The Getting Home Project is a three-year, community-based project, focusing on reducing barriers to safe, secure, and affordable housing for women fleeing violence in BC.

This project is working on community specific solutions in 4 BC pilots & policy recommendations that alleviate barriers to women accessing housing.



Project:

# ROWY

Reaching Out with Yoga

ROWY is a five-year research project bringing trauma-informed yoga to women, children and youth who have experienced violence and are using transition or second stage housing services in BC, as well as to those who support them.

A graphic for the ROWY project. At the top, there is a stylized illustration of a house with a person and a child reaching for a leafy branch. Below this, the text "reaching out with yoga" is written in a sans-serif font. Underneath the title, a paragraph describes the project's focus on trauma-informed yoga for women and children who have experienced violence, and its potential to support staff in transition and second stage housing programs. At the bottom, the website "www.reachingoutwithyoga.ca" is listed. The entire graphic is set against a light green background with a subtle house outline.

reaching out  
with yoga

This project will explore the impact of trauma-informed yoga on the health and well-being of women and children who have experienced violence. It will also explore the potential for trauma-informed yoga practice to support the work and wellness for the staff of Transition and Second Stage Housing programs.

[www.reachingoutwithyoga.ca](http://www.reachingoutwithyoga.ca)

 BC Society of  
Transition Houses

 Yoga Outreach

# Project: Cedar Blankets: Increasing Access for Indigenous Women & Children



In 2016, BCSTH developed a culturally informed inclusive services delivery model to increase Indigenous women's access to transition and second stage houses and safe homes through research and consultation with Indigenous women with lived experience and those providing services.

The model practices were developed into an online training curriculum for frontline services that emphasizes practical approaches to enhancing access and safety for Indigenous women and their children.

In 2019, BCSTH secured a 5 year WAGE grant for piloting and testing of the model with members.

# Project: Technology Safety Project

This initiative provides training and resources about technology facilitated violence and safety planning.

It includes information about how technology can enhance safety but also impact the privacy, confidentiality & autonomy of women as survivors of technology facilitated violence.



# BCSTH Legal Toolkit



General Information about Legal Issues and  
Court Matters in British Columbia

## BCSTH Legal Toolkit Project

- Toolkit & Webinars – Posted on BCSTH YouTube site
- In person & on-line training
- PBSC Students and Court Watch Project
- Consult with Rise regarding Virtual Legal Clinic & Rural & Remote Project





# PEACE Program for Children and Youth Experiencing Violence

PEACE program is a free, confidential counselling program across BC for children and youth aged 3 to 18 who have been exposed to domestic violence.



# Children's Exposure to Domestic Violence

- **3-5 children** in every school classroom are exposed to domestic violence (Jaffe, 1990).
- Each year in Canada, **up to 362,000** children and youth are exposed to violence in the home (UNICEF, 2006).
- In one day, **over 929 women, youth and children** were served by the PEACE programs in BC (BCSTH, 2018) and an additional **1,322** children and youth were still on waitlists for services.

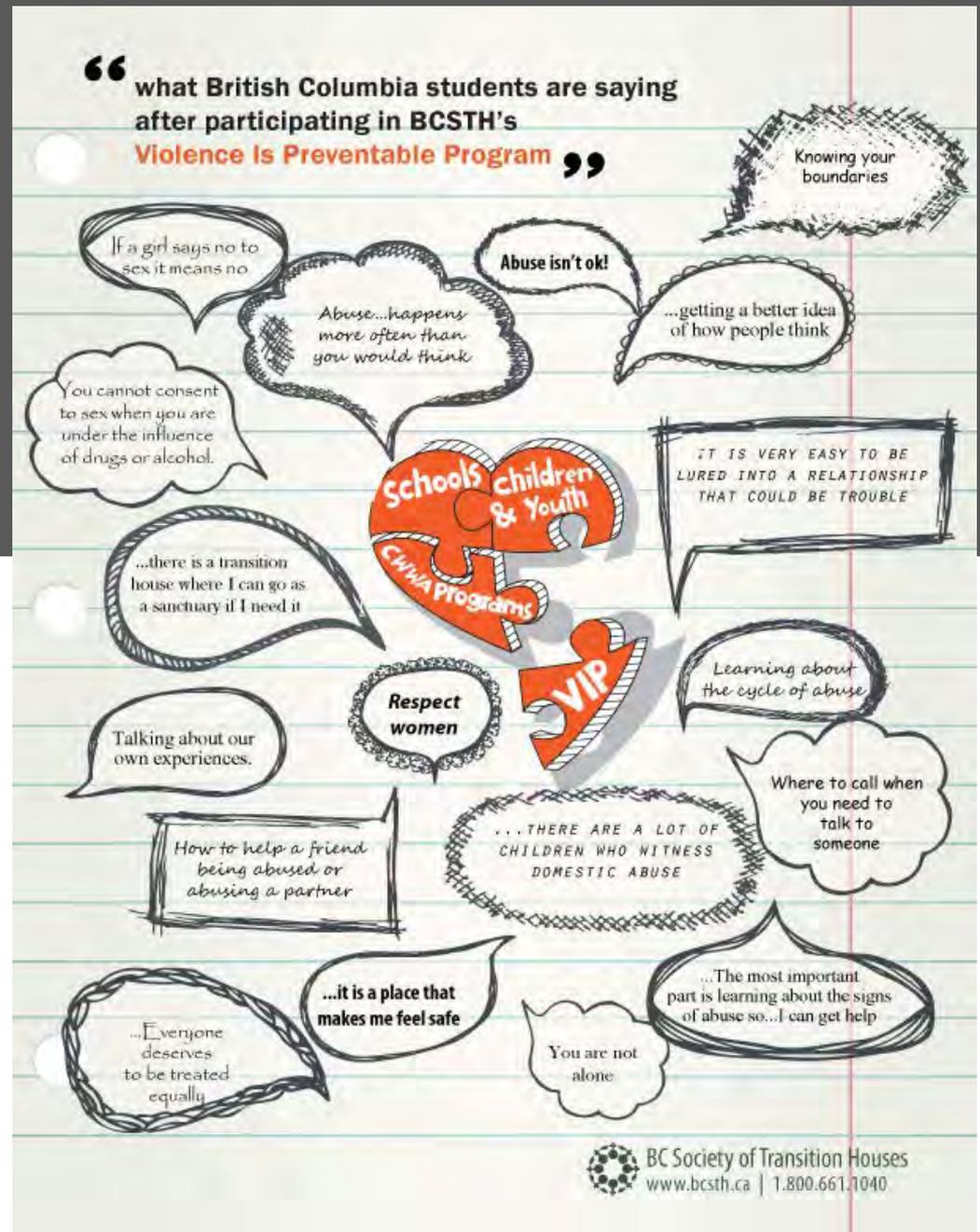


Project:

# Violence is Preventable

VIP is a provincial strategy for prevention and intervention activities that link schools and communities with PEACE programs.

In the 2018-19 school year, 521 presentations were delivered to 99 schools across the BC, reaching 9, 212 participants. Resulting in 684 referrals to PEACE programs & 65 disclosures of violence.



# Current Research for Member Programs

- Tech Safety Policy Template Guide & Webinar
- Resource portal with information, policies, procedures on providing inclusive service to 2SLGBTQ+ individuals experiencing domestic violence.
- CARE Handbook Update (2002) & pet policy templates
- Overdose guidelines and policies



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Subscribe to our **YouTube** Channel,  
and Follow us on **Twitter!**



[Who we are](#) [Who we support](#) [How we support](#) [Projects](#) [Training](#) [Employment](#)

The BC Society of Transition Houses is a member-based, provincial umbrella organization that, through leadership, support and collaboration, enhances the continuum of services and strategies to respond to, prevent and end violence against women, children and youth.



[www.bcsth.ca](http://www.bcsth.ca)



# Thank you & Questions

Amy S. FitzGerald, ED

[amy@bcsth.ca](mailto:amy@bcsth.ca)

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Website: <http://bcsth.ca>

Facebook: [facebook.com/bcsth](https://www.facebook.com/bcsth)

Twitter: [twitter.com/bcsth](https://twitter.com/bcsth)

YouTube: <https://www.youtube.com/user/BCYSTH>

Instagram: [bcsocietyoftransitionhouses](https://www.instagram.com/bcsocietyoftransitionhouses)



# Tenancy Issues for women in abusive relationships.

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AMBER PRINCE, ATIRA

OCTOBER 10, 2019

# Overview

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- ❖ MSDPR policy
- ❖ MCFD policy
- ❖ Leaving with pets
- ❖ CVAP Benefits
- ❖ The *RTA* – does it apply?

# Ministry of Social Development & Poverty Reduction Policy

---

See: <https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/persons-fleeing-abuse?keyword=violence>

- It is not necessary for abuse or domestic violence to be verified at this time for the specific policies to be applied, only that it be disclosed.
- When an applicant discloses they are fleeing abuse on the application or during the Stage 1 interview, the applicant is given critical priority and must be scheduled for an interview within 1 business day.
- The applicant is exempt from the requirement to perform a work search and must immediately proceed to Stage 2 of the application.

# What is “fleeing abuse” according to MSDPR?

---

The Ministry defines abuse as family violence as defined in the *Family Law Act*.

- Family violence includes physical abuse, sexual abuse, psychological abuse, & emotional abuse.
- Psychological or emotional abuse includes:
  - Intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property,
  - Unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy,
  - Stalking or following of the family member,
  - Intentional damage to property,
  - Where a child is involved, family violence includes direct or indirect exposure to family violence.

# Ministry of Social Development & Poverty Reduction Policy con't

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- If the applicant or recipient has advised that they are “not residing” with the abusive spouse or family member but is living in a separate living space at the same address or property, policies & policy exemptions for Persons Fleeing Abuse still apply.
- Staff must ensure in the interim the immediate needs of the applicant & dependent children are met.
- Applicants or recipients who have disclosed they are fleeing from abuse must be made aware of all the exemptions or supplements to which they may be entitled.
- If minor dependants are involved, MCFD must be contacted if there is reason to believe the children are at risk.

# Ministry of Children & Families Policy

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See: **BEST PRACTICE APPROACHES - CHILD PROTECTION AND VIOLENCE AGAINST WOMEN, 2017** [https://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/public-safety/protecting-children/best\\_practice\\_approaches\\_policy.pdf](https://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/public-safety/protecting-children/best_practice_approaches_policy.pdf)

*“The safety & well-being of children are often dependent on the safety of the non-abusing mother & that wherever possible, supportive services should be offered to the mother in order to enhance her ability to continue to care safely for her child(ren)”*

Social workers are supposed to assist moms with safety planning, which may include:

*Securing safe housing in the mother’s & child’s own residence whenever possible or with her family or friends, in subsidized housing, in transitional or permanent housing (p. 23)*

# Unique barriers for women with pets

---

- among women in shelters who have fled violence, 89% reported the same kind of violence against their pet.
- Pets are used to threaten & control women
- Many of those threats are carried out.
- up to 55% of women delay leaving abuse if they can't take their pets with them and 1/3 go back to check on pets

***“I went back to get the cats & they'd all been poisoned.”***

-Excerpt from, Alberta SPCA, *The Cruelty Connection: The Relationships between Animal Cruelty, Child Abuse and Domestic Violence*  
(August 2013)

# Unique barriers for women with pets

---

Some women simply **move back in with their abuser** because of their pet.

Some women become **homeless to keep their pets** with them or

End up in **other precarious, abusive or exploitive housing situations.**

*This is my cat Ghost. And I wouldn't leave him behind if I had to leave my home →*



# Resources

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Human Rights issue? See pet powerpoint from last year with Kate Feeney.

Movement among the anti-violence sector & non-profit housing providers towards pet-friendly housing.

Calls to reform the *RTA* so that it's more pet-friendly like Ontario's.

SPCA Workshops & Compassionate Board: <https://spca.bc.ca/faqs/%e2%80%8bi-leaving-abusive-situation-can-take-pets-get-back-feet/>

Charlie's food bank and vet care: [https://spca.bc.ca/programs-services/community-work/charlies-pet-food-bank-free-vet-clinic/?utm\\_referrer=https%3A%2F%2Fwww.google.ca%2F](https://spca.bc.ca/programs-services/community-work/charlies-pet-food-bank-free-vet-clinic/?utm_referrer=https%3A%2F%2Fwww.google.ca%2F)

Ask your local shelter what they can do to assist.

# If abuse has resulted in crime

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- The Crime Victim Assistance Program can assist victims, immediate family members and some witnesses in coping with the effects of violent crime.
- See the *Crime Victim Assistance Act*
- Application forms can be found here:  
<https://www2.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/cvap-forms>
- Applications have to be made within 1 year except for sexual offences or if an application could not have otherwise been reasonably made.
- No charges have to be laid to apply & the other party is not notified.

# CVAP Benefits

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- Medical and dental services
- Prescription drug expenses
- Counselling
- Protective measures
- Replacement of damaged or destroyed eyeglasses, clothing & disability aids
- Childcare and homemaker services
- Disability aids & related disability expenses or services
- Support for a child born because of a crime
- Vocational services
- Income support or lost earning capacity
- Transportation and related expenses
- Crime scene cleaning

# Abuse & the RTB – Does the RTB apply?

---

See: **RTB Policy Guideline #46 - *Emergency Shelters, Transitional Housing, Supportive Housing***

S. 4 of the RTA states that the RTA does not apply to living accommodation provided for “emergency shelter or transitional housing.”

Under s. 1 of the *Residential Tenancy Regulation*, “transitional housing” means:

- (a) living accommodation provided on a temporary basis;
- (b) by a person or organization that receives funding from a local government or the government of BC or of Canada for the purpose of providing that accommodation, &;
- (c) together with programs intended to assist tenants to become better able to live independently.

# Abuse & the RTB – Does the RTB apply?

---

All criteria under s. 1 have to be met to meet the definition of “transitional housing”

Supportive housing is long-term or permanent living accommodation for individuals who need support services to live independently.

The *RTA* applies to supportive housing (unlike emergency shelters & transitional housing)

Any policies put in place by supportive housing providers must be consistent with the *RTA* & regulations.

# If the RTA applies ...

---

Sometimes landlords will seek:

- To evict a tenant who has experienced abuse or
- Damages when a tenant's "guest" has broken a window etc.

See e.g. s. 47 of the *RTA* where a landlord can seek to end a tenancy where a tenant or a person permitted on the residential property by the tenant has:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
- (iii) put the landlord's property at significant risk;

# RTB precedent

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[http://www.housing.gov.bc.ca/rtb/decisions/2018/11/112018\\_Decision%206941.pdf](http://www.housing.gov.bc.ca/rtb/decisions/2018/11/112018_Decision%206941.pdf)

- Being subject to “domestic violence” is not “causing a significant disturbance”
- It’s unclear that the tenant was able to be responsible for their “guest” (i.e. the abusive person) in the context of domestic violence.
- The tenant was working with support workers and police to obtain a no-contact order.

# BC Housing Women's Transition Housing & Supports Program

Law Foundation Conference

Oct 10, 2019

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[Second-Stage Housing Providers List](#)

[Priority Placement Program](#)



# WTHSP – Second Stage Housing

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Exit Now

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Abbotsford	<a href="#">SARA for Women Society</a> ↗	Christine Lamb Residence	604-746-4200 <a href="#">email</a>
Burnaby	<a href="#">Dixon Transition Society</a> ↗	Wenda's Place	* 604-298-6046 <a href="#">email</a>
Chilliwack	<a href="#">Xolhemet Society</a> ↗	Xolhemet Second Stage	* 1-888-558-0468 604-824-0939 <a href="#">email</a>

## Building BC: Women's Transition Housing Fund

- \$141 million over three years and \$743 million investment over 10 years to build 1,500 spaces for women and children who have experienced violence/or at risk of violence
- EOI - **75 submissions** from across the province - primarily SS and permanent, affordable housing, specialized programs
- Target communities identified based on submissions, current WTHSP programs, need & demand and the program review
- October 2018 the first announcement was made for 12 new programs across the province

## Homeless Prevention Program (HPP)

- Provides portable rent supplements and support services to help individuals/families access rental housing in the private (non-subsidized) housing market
- Targeted for populations at risk of homelessness:
  - **women who have experienced violence or are at risk of violence (345 RS WTHSP)**
  - youth transitioning out of foster care or at risk
  - people leaving the correctional and healthcare systems
  - Indigenous individuals and families

## Homeless Prevention Program (HPP)

- Annual budget WTHSP Providers: **\$3.38 million**
- **23 HPP programs** funded through WTHSP providers
- Rent Supplements
  - At least **300 Rent Supplements** available through WTHSP providers each month
- FTEs funded through WTHSP Providers: **9.75**

## Priority Placement Program

- Priority Placement Program provides priority access to the Housing Registry for women in BC who have experienced violence or are at risk of violence
- A BC Housing application form along with a supplemental application form
- Supplemental application form is required to be completed by a third party verifier

## Priority Placement Program

- Priority Placement Coordinator works in the Lower Mainland area and with DM BCH developments
- Assesses women/families for units and provides ongoing support as needed
- Follows up and provides supports for existing tenants who may be experiencing violence

## Questions???

---

**Sairoz Sekhon** – Manager, Women’s Transition Housing and Supports Program  
[ssekhon@bchousing.org](mailto:ssekhon@bchousing.org)



BC Society of Transition Houses



# Who We Are

The BC Society of Transition Houses is a member-based, provincial umbrella organization. We support anti-violence workers providing support services and programs for women, children and youth experiencing violence. BCSTH Mission is to work collectively to respond to, prevent and end VAW & children.

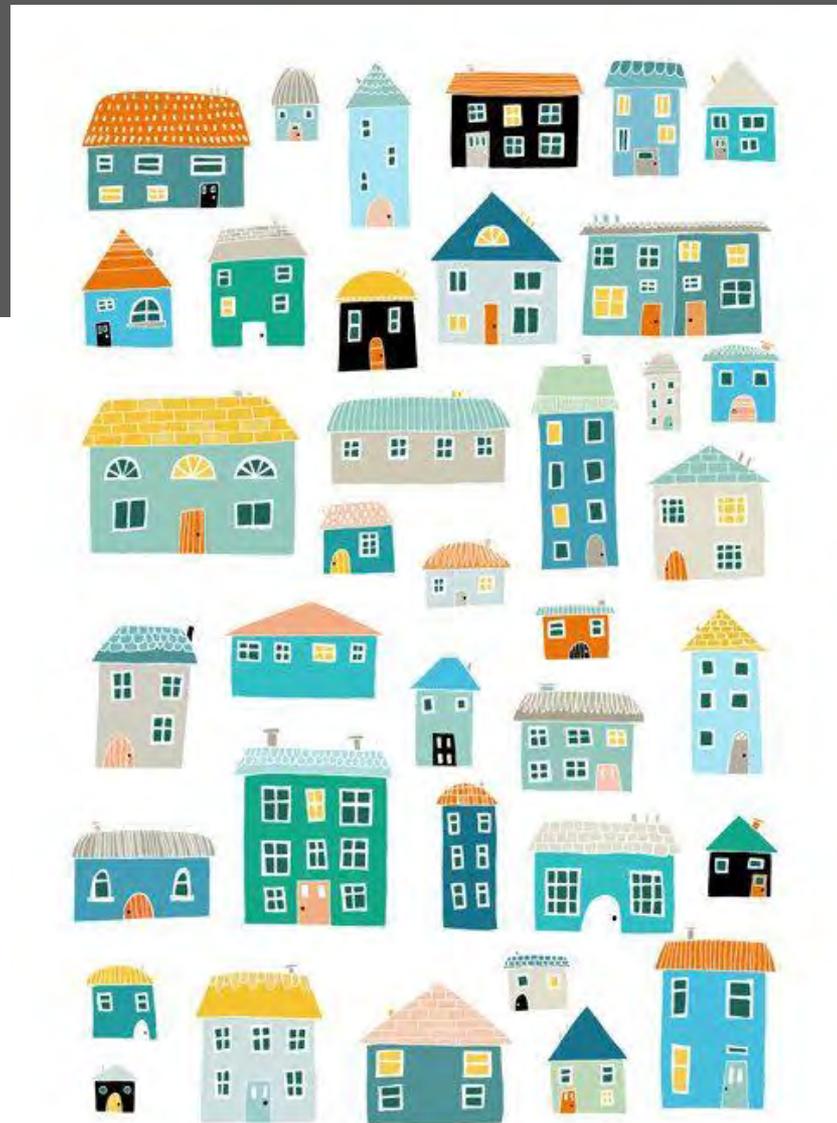


BC Society of Transition Houses

# Who We Support

We provide support to Transition, Second and Third Stage Houses, Safe Homes and Prevention, Education, Advocacy, Counselling and Empowerment (PEACE) and Violence is Preventable programs.

We currently have 108 members and support over **121 housing** and **86 PEACE programs** throughout British Columbia.



Public Awareness Campaign:

“You are not alone”



# Violence Against Women By the Numbers

- Every year in BC year, more than **18,000 women and children** access transition houses, second stage housing and safe homes to escape violence or abuse (Egilson, 2016).
- Across Canada, on a single day **79% of women and children** seeking safe accommodation were turned away due to lack of capacity (Shelter Voices, 2019). Increase since 2016.
- Every year in BC, more than **13,000** people seek police assistance to stop violence at the hands of a current or former spouse or dating partner (Egilson, 2016)
- Domestic Violence is one of the main causes of **homelessness** for CA women and children. (WSC, Homelessness & VAW, 2017)



# BCSTH Projects

- Building Supports
- Reducing Barriers
- Getting Home
- Reaching Out with Yoga
- Cedar Blankets
- Technology Safety
- Legal Toolkit
- PEACE Programs
- Violence is Preventable



# Project:

# Building Supports

## Housing Access for Immigrant and Refugee Women (IRW) Leaving Violence

This project is focused on understanding the barriers to accessing secure and affordable house for IRW leaving violent relationships.

BCSTH developed a promising practices' guide for frontline workers, and policy recommendations that facilitate the removal of barriers to safe, secure, and affordable housing.

**BCNPHA**  
BC Society of Transition Houses  
The FREDA Centre for Research on Violence Against Women and Children

**Building Supports Phase 1**  
Housing Access for Immigrant & Refugee Women Leaving Violence

The Building Supports project is a collaborative three-year project co-led by BC Non-Profit Housing Association, BC Society of Transition Houses and the FREDA Centre for Research on Violence Against Women and Children. The purpose of the project is to understand the barriers in accessing short- and long-term housing for immigrant and refugee women (IRW) leaving violent relationships and to identify practices and policies that can facilitate the removal of barriers to safe, secure and affordable housing. This infographic summarizes the findings from the first phase of the project. The objective of the first phase was to understand the experiences of IRW attempting to secure safe, affordable and culturally appropriate housing after leaving domestic violence.

### RESEARCH

#### DEMOGRAPHICS OF FOCUS GROUP & INTERVIEWS WITH IRW

- 43% Permanent Resident
- 36% Canadian Citizen
- 17% Refugee

- + Originated from 22 different countries
- + Spoke 25 different languages
- + Had been in Canada for 1.5 to 36 years
- + 90% had children (average 2.2)
- + 74% had their children living with them

#### METHODOLOGY

- + Online survey of Transition House and Multi-Service Agencies (n=89)
- + Interviews with Housing Managers (n=15)
- + Focus groups and interviews with women with lived experiences (n=39)
- + Workshop with stakeholders (n=16)

#### KEY THEMES

##### BARRIERS

###### SAFETY

- + Language and cultural barriers
- + Shame and fear of disclosure
- + Lack of familial and community support
- + Lack of knowledge about available services
- + Lack of financial security
- + Limited housing options

###### POLICY

- + Time limits in Transition Houses
- + Income assistance policies
- + Immigration and sponsorship policies
- + BC Housing policies

###### HOUSING

- + Lack of affordable housing
- + Discrimination
- + Misconceptions about Transition Houses
- + Challenges of communal living
- + Long waitlists and inadequate sized units
- + Tenant selection process
- + Inadequate income assistance
- + Lack of support
- + Landlords

##### IMPACTS

- + Physical and Mental Health
- + Risk of homelessness
- + Return to abuser

*"I was in a relationship waiting and living [in] hell because I didn't know that we have all this kind of supports." (Focus group participant)*

# You are not alone

Do you feel unsafe in your home?

Transition Houses offer free support and shelter for women and children.

انتي مش لخالک  
ਤੂੰਸੀ ਇਕਲੇ ਨਹੀ ਹੋ  
تو تنها نیستی.  
妳並不孤單

Make the call.

**1.800.VictimLink**  
**1.800.563.0808**

watch our videos at [www.bcsth.ca](http://www.bcsth.ca)



لا تشعرين بالامان في بيتك ؟  
البيوت الانتقالية تقدم المأوى والدعم  
المجاني للنساء واطفالهن

آيا تو، در خانه ات، احساس نامنی می کنی؟  
خانه های "ترنزشن" زن ها و بچه ها را به طور  
رایگان حمایت می کنند و پناه می دهند.

ਕਿ ਤੁਸੀ ਅਪਨੇ ਘਰ ਵਿਚ ਅਸੁਰਸ਼ਿਤ ਮਹਿਸੂਸ ਕਰਦੇ ਹੋ?  
ਟਰਾਂਸਿਜ਼ਨ ਹਾਊਸ ਔਰਤਾਂ ਅਤੇ ਬਚਿਆਂ ਲਈ ਮੁਫਤ ਸੇਵਾਵਾਂ  
ਅਤੇ ਰਹਿਣ ਲਈ ਘਰ ਪ੍ਰਦਾਨ ਕਰਦਾ ਹੈ!

當妳在家時有沒有感到不安全？  
婦幼之家免費提供妳與妳的孩子  
一個安全可靠的避風港。

A multi-lingual public awareness campaign educating the public about what Transition Houses are and how to access them.

Translated in Arabic, Farsi, Punjabi and Mandarin.

Radio & TV PSA, Bus shelters, Interior bus ads, women's washrooms.

[www.bcsth.ca/youarenotalone](http://www.bcsth.ca/youarenotalone)

Project:

# Reducing Barriers

- Women who have experienced violence and who have mental wellness and substance use issues can face restricted access to transition and second stage houses and safe homes.
- As a result, those who are most vulnerable are at increased risk of homelessness and further violence.
- This training explores how to incorporate trauma-informed practices to reduce barriers.

Project:

# Getting Home

The Getting Home Project is a three-year, community-based project, focusing on reducing barriers to safe, secure, and affordable housing for women fleeing violence in BC.

This project is working on community specific solutions in 4 BC pilots & policy recommendations that alleviate barriers to women accessing housing.



Project:

# ROWY

Reaching Out with Yoga

ROWY is a five-year research project bringing trauma-informed yoga to women, children and youth who have experienced violence and are using transition or second stage housing services in BC, as well as to those who support them.

A graphic for the ROWY project. At the top, there is a stylized illustration of a house with a person and a child reaching for a leafy branch. Below this, the text "reaching out with yoga" is written in a lowercase, sans-serif font. Underneath the title, a paragraph of text describes the project's focus on trauma-informed yoga for women and children who have experienced violence, and its potential to support staff in transition and second stage housing programs. At the bottom, the website address "www.reachingoutwithyoga.ca" is provided. The entire graphic is set against a light green background with a subtle house outline.

reaching out  
with yoga

This project will explore the impact of trauma-informed yoga on the health and well-being of women and children who have experienced violence. It will also explore the potential for trauma-informed yoga practice to support the work and wellness for the staff of Transition and Second Stage Housing programs.

[www.reachingoutwithyoga.ca](http://www.reachingoutwithyoga.ca)

 BC Society of Transition Houses  Yoga Outreach

# Project: Cedar Blankets: Increasing Access for Indigenous Women & Children



In 2016, BCSTH developed a culturally informed inclusive services delivery model to increase Indigenous women's access to transition and second stage houses and safe homes through research and consultation with Indigenous women with lived experience and those providing services.

The model practices were developed into an online training curriculum for frontline services that emphasizes practical approaches to enhancing access and safety for Indigenous women and their children.

In 2019, BCSTH secured a 5 year WAGE grant for piloting and testing of the model with members.

# Project: Technology Safety Project

This initiative provides training and resources about technology facilitated violence and safety planning.

It includes information about how technology can enhance safety but also impact the privacy, confidentiality & autonomy of women as survivors of technology facilitated violence.



# BCSTH Legal Toolkit



General Information about Legal Issues and  
Court Matters in British Columbia

## BCSTH Legal Toolkit Project

- Toolkit & Webinars – Posted on BCSTH YouTube site
- In person & on-line training
- PBSC Students and Court Watch Project
- Consult with Rise regarding Virtual Legal Clinic & Rural & Remote Project





# PEACE Program for Children and Youth Experiencing Violence

PEACE program is a free, confidential counselling program across BC for children and youth aged 3 to 18 who have been exposed to domestic violence.



# Children's Exposure to Domestic Violence

- **3-5 children** in every school classroom are exposed to domestic violence (Jaffe, 1990).
- Each year in Canada, **up to 362,000** children and youth are exposed to violence in the home (UNICEF, 2006).
- In one day, **over 929 women, youth and children** were served by the PEACE programs in BC (BCSTH, 2018) and an additional **1,322** children and youth were still on waitlists for services.

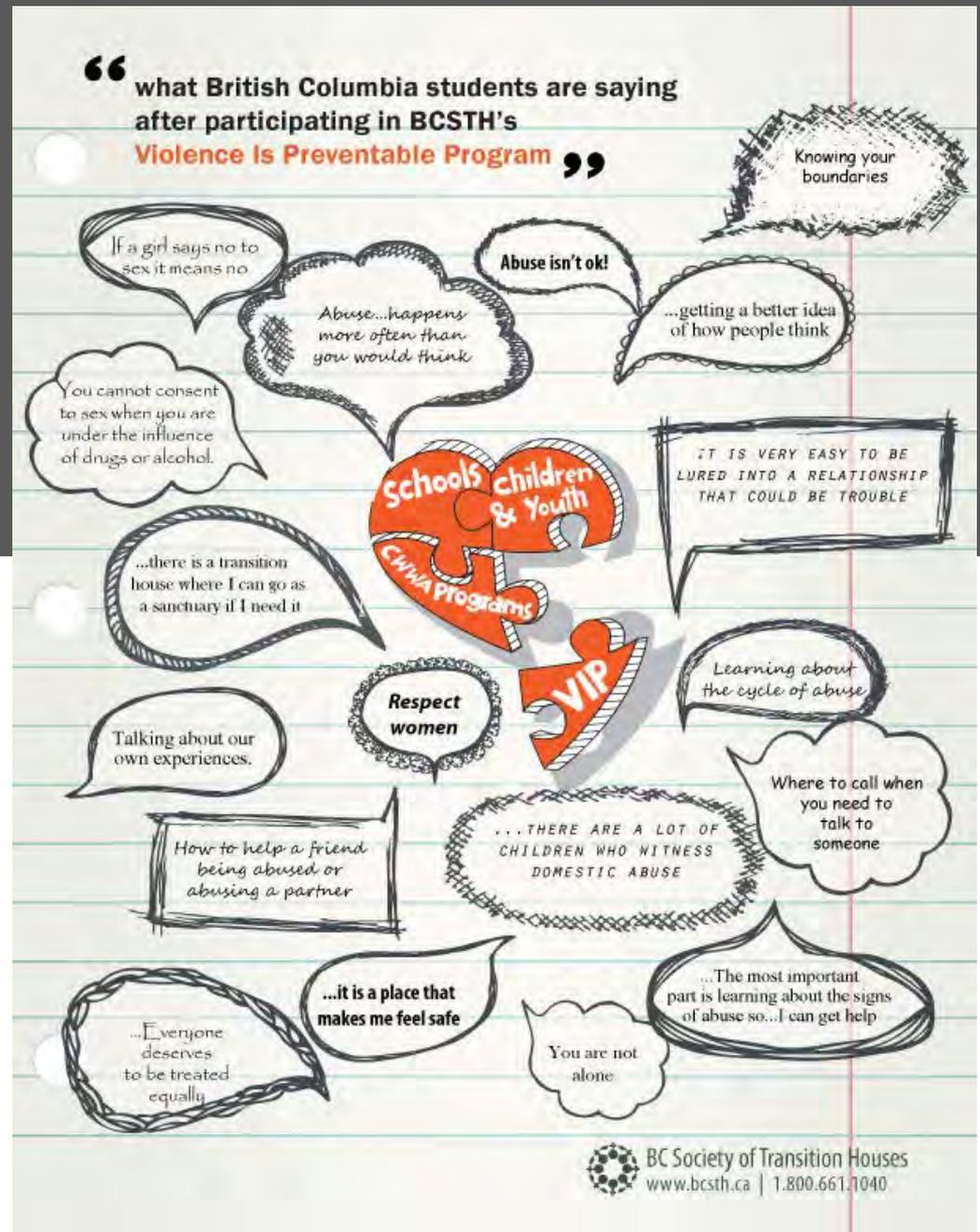


Project:

# Violence is Preventable

VIP is a provincial strategy for prevention and intervention activities that link schools and communities with PEACE programs.

In the 2018-19 school year, 521 presentations were delivered to 99 schools across the BC, reaching 9, 212 participants. Resulting in 684 referrals to PEACE programs & 65 disclosures of violence.



# Current Research for Member Programs

- Tech Safety Policy Template Guide & Webinar
- Resource portal with information, policies, procedures on providing inclusive service to 2SLGBTQ+ individuals experiencing domestic violence.
- CARE Handbook Update (2002) & pet policy templates
- Overdose guidelines and policies



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[Training](#)

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The BC Society of Transition Houses is a member-based, provincial umbrella organization that, through leadership, support and collaboration, enhances the continuum of services and strategies to respond to, prevent and end violence against women, children and youth.



[www.bcsth.ca](http://www.bcsth.ca)



# Thank you & Questions

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Twitter: [twitter.com/bcsth](https://twitter.com/bcsth)

YouTube: <https://www.youtube.com/user/BCYSTH>

Instagram: [bcsocietyoftransitionhouses](https://www.instagram.com/bcsocietyoftransitionhouses)



# Residential Tenancy Branch



[gov.bc.ca/landlordtenant](http://gov.bc.ca/landlordtenant)





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# RTB Authority & Scope



## Participant-driven process; civil action:

- Landlord vs. Tenant(s) **or**
- Tenant(s) vs. Landlord



# Dispute Applications

- 20,000 per year
- 60% landlords and 40% tenants





# Establish Jurisdiction .

Are they a tenant?

- If yes, eligible under section 45.1 of the RTA to end a fixed-term tenancy
- If no, there is no standing for them to end a tenancy





# Existing Provisions for Ending Fixed Term Agreements Under Special Circumstances



- Fleeing Family Violence
- Moving into Long-Term Care



# Who is eligible?

- Violence from a family member – as defined in the *Family Law Act*
- Individuals assessed or accepted into a care facility regulated under the *Community Care and Assisted Living Act* and *Hospital Act*

# How does it work?

 **Ending Fixed-Term Tenancy Confirmation Statement** #RTB - 48

The Residential Tenancy Act allows for the early termination of a fixed-term tenancy, commonly known as a lease, by a tenant who needs to end a fixed-term tenancy because of family violence or who has been accepted into a long-term care facility. The purpose of this form is to confirm the tenant's eligibility to end a fixed-term tenancy under section 45.1 of the Residential Tenancy Act. The confirmation statement in this form is completed by an authorized third-party verifier under Section 39 (family violence) or Section 40 (long-term care) of the Residential Tenancy Regulation. Contact information for the third-party verifier is necessary to confirm they are authorized to make a confirmation statement. Fraud used in completion of this form may result in a decision under the Residential Tenancy Act that the tenant's early termination is not valid.

**Confidentiality:** In accordance with the Personal Information Protection Act, a landlord must not use or disclose this form or its contents to any person without the consent of the tenant named below. A landlord must refuse to provide access to the tenant's personal information if: it would threaten someone's life or security; it would reveal someone else's personal information; or, it would reveal the identity of someone who provided personal information about someone else. Unauthorized use or disclosure may subject the landlord to investigation by the Office of the Information and Privacy Commissioner. See Important Information on next page.

**TENANT INFORMATION**

\_\_\_\_\_  
first and middle name(s) \_\_\_\_\_  
last name

**RENTAL UNIT ADDRESS**

\_\_\_\_\_  
unit/suite # \_\_\_\_\_ BC \_\_\_\_\_  
street number and street name city province postal code

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_  
(tenant or legal representative) day month year

**THIRD-PARTY VERIFIER CONFIRMATION STATEMENT**

I, \_\_\_\_\_, know the tenant identified above in my professional capacity as a(n) \_\_\_\_\_  
authorized third-party verifier first and last name  
\_\_\_\_\_ and confirm that this tenant is eligible to end a fixed-term tenancy \_\_\_\_\_  
position  
under section 45.1 of the Residential Tenancy Act. I confirm that I am authorized under section 39 (family violence) or 40 (long-term care) of the Residential Tenancy Regulation to make this statement and that I have assessed the tenant and the tenant's circumstances in accordance with section 41 (assessments) of the Regulation.

I understand that, in making this statement, I may be required to provide information in a proceeding under the Residential Tenancy Act but only regarding the following matters:

(a) evidence as to my authority to complete this statement under the Residential Tenancy Regulation;  
(b) evidence as to the authenticity of my signature on this statement.

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_/\_\_\_\_/\_\_\_\_  
(authorized third-party signature) day month year

**CONTACT INFORMATION (may be third-party verifier or an authorized representative from the agency)**

\_\_\_\_\_  
first and last name \_\_\_\_\_  
position  
\_\_\_\_\_  
agency \_\_\_\_\_  
phone number  
\_\_\_\_\_  
email

**FOR MORE INFORMATION**  
RTB website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)  
Public Information Lines: 1-800-685-8779 (toll-free) Greater Vancouver 604-680-1020 Victoria 250-387-1802

Residential Tenancy Branch  
Office of Housing and Construction Standards  
#RTB-48 (2017/01) page 1 of 1 pages

- Authorized third-party verifier must confirm
- Tenant must give proper notice to the landlord, along with the completed form



# Who is a third-party verifier?

- Broad range of professionals and service providers
- See Residential Tenancy Regulation
  - Family violence (section 39)
  - Long-term care (section 40)



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# What is required of verifiers?

- Professional expertise/standards/judgment to assess tenant & tenant's circumstances
- Approved form (RTB-49)
- Provide completed and signed form (only to the tenant or to a person authorised)
- Keep a copy and any related records



# How long is a verified statement valid?



- 90 days when family violence is involved
- 180 days when moving to long term care



# What happens if there is another tenant in the unit?



- Tenancy ends for all tenants
- Remaining tenants can enter into a new tenancy agreement with the landlord



# Who tells the other tenant in the unit?

- A tenant who gives notice is **not** required to inform the other tenant(s)
- Landlord may choose to sign new tenancy agreement with remaining tenant(s)



# Can Landlords Call to Verify RTB-49?

- Landlords and property managers can contact Third-party verifiers for confirmation
- Tenant's privacy must be maintained
- Third-party verifier can confirm they have signed RTB-49





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# *Residential Tenancy Amendment Act*

- Introduced by the Green Party
- Supported by Government
- Expands current provisions to include 'household violence'
- Received Royal Assent May 30
- Comes into force either by regulation or within 1 year, whichever is earlier



# What's changing?

Addition of two definitions in section 45.1 and s. 45.2:

- 'household violence'
- 'occupant'



# Amendments

- s. 45.1 (2)(a)(i) and (ii)
- s. 45.1 (5)
- s. 45.2(1)(b)



# Next steps

- Gathering information and feedback about current process
- Draft regulations
- Education for public and third-party verifiers about the expanded provisions
- Bring provisions into force prior to May 30, 2020



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# Contact information

[www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant)

## Public Information Lines:

1-800-665-8779 (Toll free)

Email: [HSRTO@gov.bc.ca](mailto:HSRTO@gov.bc.ca)

**\*RTB partners with Service BC in over 60 communities**



# Housing Rights and “Treatment Resistance” – the Problems With “Supportive” and Program Agreement Housing

ANNA COOPER, PIVOT LEGAL SOCIETY

DANIELLE SABELLI, COMMUNITY LEGAL ASSISTANCE SOCIETY

OCTOBER 10, 2019

# Overview



- ▶ Introductions
- ▶ Homelessness in Canada – an overview
- ▶ Tent Cities, Decampment and “Housing Resistance”
- ▶ Rights in Housing
- ▶ Experience in Housing

# Homelessness in Canada

## Canadian homelessness

- ▶ 235,000 people experience homelessness in a year
- ▶ 3 million more are “precariously housed”
- ▶ Disproportionately impacts indigenous people
- ▶ Increasingly impacts women, families and youth

## British Columbia

- ▶ PIT Counts – steady increase in homelessness across most municipalities ([www.HomelessHub.ca](http://www.HomelessHub.ca))

## Not a matter of personal failure

Mass homelessness in Canada emerged in the 1980s, following a massive disinvestment in affordable housing, structural shifts in the economy and reduced spending on social supports. Since then, stakeholders across the country have tried and tested solutions to address the issue. These responses, largely based on the provision of emergency services, have prevented meaningful progress. Fortunately, there are many signs that we are entering a new phase – one that will lead to an end to homelessness in Canada.

# Homelessness and Indigenous Peoples on Turtle Island

**“Colonization of Indigenous bodies, minds and lands has had the historic and contemporary effect of traumatizing generations of First Nations, Métis and Inuit by disrupting traditional and vital domestic and territorial systems of governance, and obliterating timeless institutions responsible for the socialization of Indigenous Peoples... This thorough, complex and intentional unravelling of traditional social and cultural systems, known as cultural genocide, has created and prolonged, and continues to perpetuate, Indigenous homelessness in Canada”**

Jesse A. Thistle, “Definition of Indigenous Homelessness in Canada”

# The Numbers

- ▶ 1 in 15 Indigenous people in urban centres experience homelessness (vs. 1:128)
- ▶ In some Canadian cities, up to 90% of the homeless population is Indigenous
- ▶ Over 50% of on-reserve homes are inadequate
- ▶ Women, LGBTQ2S, and children
- ▶ Little is known about the Métis and Inuit

## Historic Displacement Homelessness

Indigenous communities and Nations made historically homeless after being displaced from pre-colonial Indigenous lands.



## Contemporary Geographic Separation Homelessness

An Indigenous individual's or community's separation from Indigenous lands, after colonial control.



## Spiritual Disconnection Homelessness

An Indigenous individual's or community's separation from Indigenous worldviews or connection to the Creator or equivalent deity.

# Housing: a basic human right or an investment?

"Housing is under attack today. It is caught within a number of simultaneous social conflicts. Most immediately, there is a conflict between housing as lived, social space and housing as an instrument for profitmaking – a conflict between housing as *home* and as *real estate*. More broadly, housing is the subject of contestation between different ideologies, economic interests and political projects. More broadly still, the housing crisis stems from the inequalities and antagonisms of class society."

Madden and Marcuse, In Defence of Housing

# Tent Cities, Decampment and “Housing Resistance”

Lack of housing...

- Tent city forms
- Government reacts – to visibility & public pressure
- Housing/Shelter is “provided”

"Our hope is that people will comply with the order, again really what we've been communicating to everybody, if they want housing, it's available. They really need to connect with our outreach team and make that move."

Paul Mochrie, deputy city manager with the city of Vancouver

- Some residents reject the housing/stay at the tent city...



Oppenheimer Park, August 20, 2019, (Ben Nelms/CBC)

# Tent Cities, Decampment and “Housing Resistance”

→ Narrative: people have to be forced to accept help

Bill Belichuk 1 month ago

"Marco Tynakou, a longtime park resident, says he finds tenancy rules like restrictions on visitors in those buildings to be similar to "prisons.""

How are we listening to this drivel!!! Have we all gone mad? Seriously. This is messed up. Put this dude in prison so he can have a reality check.

Are we actually listening to bums complain that a free apartment isn't good enough for them? What in the actual F...

What is happening here?

1. **The Numbers** – there is never truly enough housing
2. The Rights
3. The Quality

# Tenancy Agreements

- ▶ Pursuant to s 5 of the *RTA*, parties cannot contract out of the Act.
- ▶ A tenancy Agreement can be written or verbal.
- ▶ Pursuant to s 12 of the *RTA*, a landlord must ensure that a tenancy agreement contains the standard terms (found in the Schedule of the *Residential Tenancy Regulation*):
  - ▶ The terms may not contradict or change any right or obligation under the *Residential Tenancy Act* or a regulation made under that Act, or any standard term. If a term of this tenancy agreement does contradict or change such a right, obligation or standard term, the term of the tenancy agreement is void.
    - ▶ Pursuant to s 14 of the *RTA*, a Tenancy Agreement cannot be changed to remove a standard term; other terms besides standard terms can be amended if both parties consent (this does not apply to rent increases, restrictions, or W/D of services or facilities or an RTB order).
  - ▶ Any change or addition to this tenancy agreement must be agreed to in writing and initialed by both the landlord and the tenant. If a change is not agreed to in writing, is not initialed by both the landlord and the tenant or is unconscionable, it is not enforceable.

# Tenancy Agreements

- ▶ Security deposits and pet damage deposits;
- ▶ Condition inspection reports;
- ▶ Pets;
- ▶ Payment of rent;
- ▶ Rent increase;
- ▶ Assignment and sublets;
- ▶ Repairs;
- ▶ Occupants and guests;
- ▶ Locks;
- ▶ Landlord's entry into the rental unit;
- ▶ Dispute resolution;
- ▶ Ending a tenancy (etc.)

# What the RTA Does Not Apply To

- ▶ Pursuant to s 4 of the *RTA*, the *RTA* does not apply to the following:
  - ▶ Cooperative Housing;
  - ▶ Living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation;
  - ▶ emergency shelters;
  - ▶ transitional housing; and
  - ▶ a housing based health facility that provides hospitality support services and personal health care, or is made available in the course of providing rehabilitative or therapeutic treatment or services.

# Transitional Housing

- ▶ Pursuant to s 1 of the *Residential Tenancy Regulation* “transitional housing” includes:
  - ▶ (a) living accommodation provided on a temporary basis;
  - ▶ (b) by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and;
  - ▶ (c) together with programs intended to assist tenants to become better able to live independently.

# Transitional Housing

- ▶ Pursuant to RTB Policy Guideline # 46: “Emergency Shelters, Transitional Housing, Supportive Housing”, transitional housing is defined as follows:
  - ▶ Transitional housing is often a next step toward independent living. An individual in transitional housing may be moving from homelessness, an emergency shelter, a health or correctional facility or from an unsafe housing situation. Transitional housing is intended to include at least a general plan as to how the person residing in this type of housing will transition to more permanent accommodation. Individuals in transitional housing may have a more moderate need for support services, and may transition to supportive housing or to independent living. Residents may be required to sign a transitional housing agreement.
  - ▶ Living accommodation must meet all of the criteria in the definition of “transitional housing” under section 1 of the Regulation in order to be excluded from the Act, even if a transitional housing agreement has been signed.

# Supportive Housing

- ▶ Pursuant to RTB Policy Guideline # 46: “Emergency Shelters, Transitional Housing, Supportive Housing,” Supportive Housing is defined as follows:
  - ▶ Supportive housing is long-term or permanent living accommodation for individuals who need support services to live independently. The Residential Tenancy Act applies to supportive housing, unlike emergency shelters and transitional housing which are excluded from the Act.
  - ▶ Under section 5 of the *RTA*, landlords and tenants cannot avoid or contract out of the Act or regulations, so any policies put in place by supportive housing providers must be consistent with the Act and regulations.

# Housing Based Health Facility

- ▶ Pursuant to s 4 of the *RTA*, the Act does not apply to:
  - ▶ (g)(v) a housing based health facility that provides hospitality support services and personal health care or
  - ▶ (g)(vi) that is made available in the course of providing rehabilitative or therapeutic treatment or services,
- ▶ *PHS Community Services Society v Swait, 2018 BCSC 824 (Swait)*:
  - ▶ The term “housing based health facility” is not defined in the legislation.
    - ▶ [74] First, that correspondence is from the very agency (BC Housing) that owns the Facility and under which the Agreements were entered into. To the extent Vancouver Island Health holds the view that the Facility is a “housing based health facility”, it presumably could do so in relation to the services it provides, but that view cannot be expected to represent the view of BC Housing.

# Housing Based Health Facility

- ▶ In the RTB decision that was reviewed in *Swait*, the arbitrator found the housing accommodation was not a “housing based health facility” for the following reasons:
  - ▶ Operator agreement does not specify that the accommodation was intended to be a health facility;
  - ▶ The intention of government was to provide supported housing— Government was responding to a housing crisis not a health crisis;
  - ▶ Medical supports were optional, and tenants not required to participate in any services or course of treatment; and
  - ▶ Nothing in the tenancy agreement to suggest the housing accommodation was exempt from the *RTA*.

# Housing Based Health Facility

- ▶ When considering s 4(g)(v) and s 4(g)(vi) *RTA* exemptions, the RTB has generally found the exemption does not apply in the following circumstances:
  - ▶ Despite providing hospitality services, the housing provider explicitly states they are not responsible for the physical and mental health of the tenants (not a “housing based health facility”);
  - ▶ Tenants are not obligated to participate in the services or access the supports;
  - ▶ Length of tenancy not restricted or limited to a recovery period;
  - ▶ Parties contracted into a residential tenancy agreement, despite calling tenants “licencees”;
  - ▶ Housing provider does not identify as a nursing home in their promotional material; and
  - ▶ Housing provider only provides hospitality support services, not personal health care.

# Housing Based Health Facility

- ▶ When considering s 4(g)(v) and s 4(g)(vi) *RTA* exemptions, the RTB has generally found the exemption does apply in the following circumstances:
  - ▶ Home support staff (24 hour), care aides and mental health workers on-site;
  - ▶ Embedded clinic in the building;
  - ▶ Meals, housekeeping and laundry service provided;
  - ▶ Emergency response call bell;
  - ▶ Retirement community;
  - ▶ Strict noise restrictions; and
  - ▶ Rules around installing life support equipment and oxygen machines.

# Guest Restrictions

- ▶ Tenants' rights to access is protected.
- ▶ Pursuant to s 30 of the *RTA*, a landlord must not unreasonably restrict access to the residential property by the tenant or a guest of the tenant:
- ▶ **Tenant's right of access protected**
  - ▶ **30** (1) A landlord must not unreasonably restrict access to residential property by
    - ▶ (a) the tenant of a rental unit that is part of the residential property, or
    - ▶ (b) a person permitted on the residential property by that tenant.
  - ▶ (2) A landlord must not unreasonably restrict access to residential property by
    - ▶ (a) a candidate seeking election to the Parliament of Canada, the Legislative Assembly or an office in an election under the [Local Government Act](#), the [School Act](#) or the [Vancouver Charter](#), or
    - ▶ (b) the authorized representative of such a person who is canvassing electors or distributing election material.

# Guest Restrictions

- ▶ Pursuant to s 9 of the *Residential Tenancy Regulation*, a landlord cannot prevent a tenant from having guests under reasonable circumstances.
- ▶ **Occupants and guests**
  - ▶ **9** (1) The landlord must not stop the tenant from having guests under reasonable circumstances in the rental unit.
  - ▶ (2) The landlord must not impose restrictions on guests and must not require or accept any extra charge for daytime visits or overnight accommodation of guests.
  - ▶ (2.1) Despite subsection (2) of this section but subject to section 27 of the Act [*terminating or restricting services or facilities*], the landlord may impose reasonable restrictions on guests' use of common areas of the residential property.
  - ▶ (3) If the number of occupants in the rental unit is unreasonable, the landlord may discuss the issue with the tenant and may serve a notice to end a tenancy. Disputes regarding the notice may be resolved by applying for dispute resolution under the *Residential Tenancy Act*.

# Guest Restrictions

- ▶ Noteworthy BC Supreme Court cases:
- ▶ *Atira Property Management v. Richardson*, 2015 BCSC 751:
  - ▶ [39] The Arbitrator clearly rejected the notion that the statutory protection afforded to tenants under S. 30(1)(a) and (b) could be limited or abrogated by landlords implementing “policy” decisions. If the meaning of reasonable restrictions was intended to include general policies adopted by landlords, regardless of the individual situation or behaviour of the tenant, the statute could have said so. It does not, and I am of the view that the Arbitrator correctly assessed the intention of the statute to be to protect individual tenants and their guests from unreasonable interference by landlords. It would be wrong in principle to permit the protection offered by the statute to be eroded by *ad hoc* non-statutory “policy” instruments promulgated by landlords, however well-intentioned.
  - ▶ [40] The fact that the Arbitrator did not address the petitioner’s extensive reasons justifying the policy in any particular detail was not a failure to give adequate reasons in the circumstances. The reasons fully explained her substantive view of what was relevant to an outcome that was justified applying the law to the facts.

# Guest Restrictions

- ▶ *PHS Community Services Society v Swait*, 2018 BCSC 824:
  - ▶ [55] Furthermore, the statute is clearly aimed at conferring a benefits on tenants; without legislation such benefits would not exist: *Atira Property Management Inc. v. Richardson*, [2015 BCSC 751 \(CanLII\)](#) at para. 26, citing *Berry* at para. 11. The Act makes it clear that there are certain standard terms from which no tenancy agreement can depart, and parties cannot contract out of the [Act \(s. 5\)](#). Nor is there any evidence or authority before me to suggest that from a juridical point of view, the interests of the respondents “co-mingle” with that of the petitioner or the Province. In fact the existence of the applications is demonstrative proof that their interests do not necessarily coincide in relation to all tenancy issues.
  - ▶ [56] More fundamentally, the petitioner has not provided any justification of why tenants who are being given a social benefit of below market housing, in an effort to try and stabilize their living situation, ought to be given less legal rights than tenants paying market rates in a residential building operated by a commercial entity.

# Guest Restrictions

- ▶ [85] I add that the arbitrator's reasoning parallels very closely Justice McEwan's reasons in *Atira Property Management v. Richardson*, [2015 BCSC 751 \(CanLII\)](#) where he found that a blanket policy was inconsistent with the [Act](#). This is precisely the reasoning of the arbitrator because he noted that it would be reasonable for the petitioner to require greater tenant control over specific guests that posed a concern; it is the blanket nature of the policy that he found unreasonable.

# Health, Safety & Housing Standards

- ▶ Pursuant to s 32 of the *RTA* the landlord has an obligation to maintain the residential property to a certain standard.
- ▶ **32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that
  - ▶ (a) complies with the health, safety and housing standards required by law, and
  - ▶ (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.
- ▶ (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
- ▶ (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.
- ▶ (4) A tenant is not required to make repairs for reasonable wear and tear.
- ▶ (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

# Health, Safety & Housing Standards

- ▶ *Rutherford v. Neighbourhood Housing Society, 2012 BCSC 2177*
- ▶ RTB arbitrator found the following:
  - ▶ This rental building caters to tenants suffering from health issues, abuse and addictions. The evidence of the landlord that I accept is that these individuals move into this building from shelters or on the recommendation of their outreach workers. They live in the neighbourhood because it is affordable to them and they are nearer to the services that can support them. Neighbours can find themselves in conflict in any type of accommodation but I find it reasonable and probable to assume that conflict may be exacerbated in a building where many of the tenants suffer from health problems and addictions.

# Health, Safety & Housing Standards

- ▶ Bruce J stated the following:
  - ▶ It appears that the arbitrator, in violation of this provision of the Act, attached a proviso similar to that contained in s. 32 relating to the provision of decoration and repair of premises, that the right varies with the nature and character and location of the rental unit. In my view, that is a patently unreasonable interpretation of the Act and, on the face of the record, it appears rather discriminatory against the tenant. A tenant who has limited resources and is therefore forced into a neighbourhood that may have problems with neighbours is entitled to the same standard, according to [s. 28](#) of the *Residential Tenancy Act*, that is accorded to all other tenants. It seems to me that the arbitrator, if he in fact interpreted [s. 28](#) in this fashion, has engaged in patently unreasonable reasoning. More likely, it is apparent from the lack of reference to [s. 28](#) and a reference to the right to be free from unreasonable disturbance that the arbitrator failed to consider [s. 28](#) at all.

# Quiet Enjoyment

- ▶ Pursuant to s 28 of the *RTA*, a tenant is entitled to quiet enjoyment, including, but not limited to:
  - ▶ The right to reasonable privacy;
  - ▶ Freedom from unreasonable disturbance;
  - ▶ Exclusive possession, subject to the landlord's right of entry under the Legislation; and
  - ▶ Use of common areas for reasonable and lawful purposes, free from significant interference.

# Landlord's Right to Access the Rental Unit Restricted

- ▶ Pursuant to s 29 of the *RTA*, the Landlord's right to enter a rental unit is restricted:
- ▶ **Landlord's right to enter rental unit restricted**
- ▶ **29** (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:
  - ▶ (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
  - ▶ (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
    - ▶ (i) the purpose for entering, which must be reasonable;
    - ▶ (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
  - ▶ (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
  - ▶ (d) the landlord has an order of the director authorizing the entry;
  - ▶ (e) the tenant has abandoned the rental unit;
  - ▶ (f) an emergency exists and the entry is necessary to protect life or property.

# Landlord's Right to Access the Rental Unit Restricted

- ▶ Where a notice is given that meets the time constraints of the *RTA*, but entry is not for a reasonable purpose, the tenant may deny the landlord access. A "reasonable purpose" may include:
  - ▶ Inspecting the premises for damage;
  - ▶ Carrying out repairs to the premises; and
  - ▶ Showing the premises to prospective tenants, or • showing the premises to prospective purchasers.
- ▶ Entry on the property by the landlord should be limited to such reasonable activities as collecting rent, serving documents and delivering Notices of entry to the premises.
- ▶ If the landlord has entered the rental unit illegally, can apply to the RTB to have the locks changed.

# RTB Compliance & Enforcement Unit

- ▶ The RTB Compliance and Enforcement Unit has the authority to do the following:
  - ▶ conduct investigations to determine compliance with tenancy laws;
  - ▶ contact the landlord of the complaint by phone to advise them of their responsibilities under legislation and the consequences of non-compliance;
  - ▶ Send warning letters indicating what corrective measures the landlord must take to fix the problem and the consequences of not following this direction;
  - ▶ impose financial penalties on the Landlord (the penalties are paid to the Government, not tenants);
  - ▶ the RTB may refuse to accept an application for further dispute resolution if an outstanding administrative penalty is owed; and
  - ▶ the RTB may make administrative penalties information available to the public. Published information may include the name and address of the person or business the penalty has been issued to, the nature of the contravention, the amount of the penalty and the status of the penalty payment.

# The Experience: Are people just being hyperbolic?

B.C. Housing has stressed its units are safe, clean and come with a range of supports. But Gary Humchitt says he has stayed in SROs where bedbugs and vermin are abundant, and never intends to return to one.

"I can't stay in a place like that — it brings out the evil in you," said Humchitt on Wednesday.

Oppenheimer park resident, August 2019 (Vancouver Sun)

# From residents and advocates:

## “Supportive Housing”

- ▶ High levels of surveillance via CTV and staff
- ▶ Collaboration with police to invade privacy
- ▶ Frequent entry into resident suites
- ▶ Policies undermining harm reduction
- ▶ Disrespectful and condescending staff
- ▶ Extremely limited guest access
- ▶ Sudden and ill-founded evictions

## SROs

- ▶ Rundown, not safe,
- ▶ Common inattention to mold, bedbugs, cockroaches, rats, fire code violations
- ▶ Windows that don't open enough for ventilation

## Reports from:

*SRO Collaborative*

*Alliance Against Displacement*

*Carnegie Community Action Project*

*SuperIntent City Society*

*Pivot Legal Society & CLAS*

*And many others...*

# From the Researchers:

## ▶ Surveillance and the Carceral Experience

- ▶ Many supportive housing sites had high levels of “regulation and control”, including “physical surveillance” “site specific modes of coercion” and “police presence”
- ▶ Authoritarian and institutional design which “illuminates unequal power relationships”
- ▶ “[B]right lights, visual angles, gated entrances and glass-paned office rooms where staff could easily observe residents and guests.”
- ▶ Persistent police and security presence both in buildings and on street outside – e.g. Partners in Action Protocol (SROs)

**“Strikingly similar to surveillance and security measures in contemporary prisons”**

# From the Researchers cntd.

- ▶ Restrictive guest policies, daily room checks, documentation of daily activities
  - “ Although these practices are intended to support residents, some also displace rights, such as privacy, that are afforded most non-marginalized tenants in their own homes, and can potentially serve as a form of coercion. ”
- ▶ Trauma for Housing
  - ▶ Have to provide intimate health, occupation and personal history information to get housing, to stay housed, to access service, when moved between housing etc.
- ▶ Poor Quality of Housing (SROs)
  - ▶ “ People who are living in deteriorating housing with poor and cramped conditions are facing rising rents and fear being displaced. SROs are in poor condition and need replacement, there is an urgent need for self-contained social housing at affordable rents, and homelessness continues to place many people at risk.”
  - ▶ “ Poor housing conditions in the Single Room Occupancy Hotels (SROs) with management issues, low standards of maintenance, pests and mold.”

# The Courts: Accessibility

“Given the personal circumstances of the City’s homeless, the shelter spaces that are presently available to others in the City are impractical for many of the City’s homeless. They simply cannot abide by the rules required in many of the facilities that I have discussed above, and lack the means to pay the required rents at others. While some of those who are amongst the City’s homeless have declined available shelter, I am satisfied that at the present time there is insufficient accessible shelter space in the City to house all of the City’s homeless persons.”

The Honourable Chief Justice Hinkson, *Abbotsford v Shantz*, 2015 BCSC 1909

People are not “Treatment Resistant” – the shelter is “Inaccessible”

# Recap:

1. **The Numbers** – there is no housing
2. **The Rights** – people's rights are poorly protected in many forms of non-market rate housing leading to frequent eviction and housing instability.
3. **The Quality** - the housing is often:
  1. Poor quality
  2. Carceral
  3. Inaccessible

**THE END – Any Questions?**

### 3. Indigenous Issues

# Helping Former Federal Day School Students With Their Claim Application

Robert Russo, Lecturer

Peter A. Allard School of Law

# Session Outline

- Background – Indian Day School Class Action Settlement Agreement
  - Eligibility of Applicants
- The Application Process
  - The Claim form including the legal process and requirements and potential issues

# Introduction – Background to Day School Settlements

- In the 1920s, close to 200,000 Indigenous children attended federally operated Indian Day Schools.
- Indian Day Schools were operated separately from the Indian Residential Schools system and were not included in the Indian Residential Schools Settlement Agreement.
- Students attended school during the day.
- Key elements of the Settlement Agreement include:
  - Individual compensation for harms associated with attendance at an Indian Day School;
  - No hearings;
  - Funding to support healing, wellness, education, language, culture and commemoration; and
  - Funding for legal fees.

Source: Crown-Indigenous Relations and Northern Affairs Canada,  
News Release, December 6 2018

# Eligibility of Applicants

- Attendance at an Eligible Institution

AND

- Suffered some form of abuse or harm from someone employed by or at the school
- Claimants
  - Former students or applicants =“Survivor Class Members”

# Application Process - Overview

- Making the Claim
- Who Decides the Claim?
- Compensation of Claim  
or  
Denial of Claim

<b>Part 1</b>	Your name, contact details and date of birth	p. 3
<b>Part 2</b>	Day School(s) and the years you attended	p. 4
<b>Part 3</b>	Consent and Signature Page	p. 5
<b>Part 4</b>	IF claiming <b>Level 1 Verbal / Physical Harm</b>	p. 6
<b>Part 5</b>	IF claiming <b>Level 2, 3, 4, or 5 Sexual / Physical Harm</b>	p. 7-11
<b>Part 6</b>	Complete <u>only</u> if you are a legal representative of a Claimant	p. 12

Before sending, please review the Retention Policy and Submission Process on pgs. 14 and 15

# Application Process - Overview

## Management of Claimant information

**Retention of Claim Form and Documents**

You can choose to have your Claim Form and supportive documents attached to the form:

A ) Securely Destroy;	<b>Please check one:</b>	Destroy
B) Returned to you;		<input type="checkbox"/>
C) Delivered to the Legacy Fund*.		Return
		<input type="checkbox"/>
		Legacy
		<input type="checkbox"/>

\* Under the Settlement Agreement, the McLean Day Schools Settlement Corporation will be established to promote Legacy Projects for commemoration, wellness/healing, and the restoration and preservation of Indigenous languages and culture. The Corporation will be managed by Directors (to be appointed by the Parties to the Agreement), with input from an Advisory Committee (representative of Indigenous survivors and their families). For more information, refer to the Agreement and visit [[www.indiandayschools.com](http://www.indiandayschools.com)].

# The Claim Form

## Claimant identifying information

Part 1: Information of Former Day School Student (Claimant)	
Claimant Name and Last Name (required)	
First Name:	
Middle Name: (if applicable)	
Last Name:	
Other name(s) (if applicable) <i>Examples: name while attending the school, maiden name, adopted name, or nickname</i>	
Claimant's Date of Birth (required)	If Claimant has died, Date of Death
MM ____ DD ____ YY ____	MM ____ DD ____ YY ____

## Part 2: Where and When did you attend the School(s)?

To be eligible for compensation, you must have attended an eligible Day School during the period when it was funded, managed and controlled by Canada (Class Period).

Day Schools covered by the Day School Settlement, along with their opening and closing dates, are listed at [www.IndianDaySchools.com](http://www.IndianDaySchools.com) (Schedule K of the Settlement). If you attended more than two (2) schools, please list each separately below.

<b>Name of Day School #1 (required)</b>	
Reserve, Location or Community	
Province or Territory	
<b>First Year of Attendance</b>	Year attended (yyyy) <u>or</u> Age when attended 19 ____
<b>Last Year of Attendance</b>	Year attended (yyyy) <u>or</u> Age when attended 19 ____

# Day School Information

## Schedule K

## Part 4 - Level 1 Abuse

- Most serious claim in application is: Verbal/Physical Abuse or Harms
- Insure descriptors accurately reflect claimant's experience
- Insure claimant understands that this is their opportunity to disclose more
- Proceed to final part of application Part 6.

### Part 4: Claim for Level 1 Harm– Verbal/Physical Abuse

If the abuse/harm described in Level 1 (\$10,000) represents the most serious abuse/harm(s) that you experienced while attending the Day School, please complete this section by placing a mark in the **box** below.

Abuse/harm may have been from teachers, officials, students, and/or other third parties.

If the abuse/harm in Level 1 does not represent the most serious harm(s)/abuse you experienced, please skip this section and complete a higher Claim Level (Levels 2 to 5) in Part 5, as appropriate.

#### LEVEL 1 – Description of Verbal / Physical Abuse or Harm

##### Verbal Abuse or Harm, including:

- Mocking, or denigration (e.g. belittling or abusive language), or humiliation (e.g., shaming) by reason of Indigenous identity or culture; or
- Threats of violence or intimidating statements; or
- Sexual comments or provocations.

OR

##### Physical Abuse or Harm, including

- Unreasonable or disproportionate acts of discipline or punishment.

#### NEXT STEPS

If you selected Level 1 above, no further description or documentation is required.

**PLEASE PROCEED TO PART 6, if applicable, on p.12 and review p.13**

# Part 5 - Level 2 Abuse

## Part 5: Claims Process for Levels 2, 3, 4, or 5

**STEP 1:** Identify the ABUSE or HARM you suffered from *teachers, officials, students, and/or other third parties.*

- **For level 2:**
- ACT(s): At least 1 incident of the specified sexual or physical abuse  
CAUSING
- HARM: serious but temporary harm

Abuse / Harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	At least one sexual incident of any one of:			Repeated sexual incidents of any one of:
Sexual Abuse/Harm	<ul style="list-style-type: none"> <li>▪ touching with sexual purpose;</li> <li>▪ adult(s) exposing themselves;</li> <li>▪ fondling/kissing;</li> <li>▪ nude photos taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ attempted penetration</li> </ul>	<ul style="list-style-type: none"> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>
	OR			
Physical Abuse	At least one incident of physical abuse / assault, <u>causing:</u>	At least one incident of physical abuse / assault, <u>causing:</u>	Repeated (at least two) incidents of physical abuse / assault, <u>causing:</u>	During an incident of any one sexual abuse / assault described above at least one incident of physical abuse / assault, <u>causing:</u>
	CAUSING:			
Harm	<u>serious but temporary harm:</u> <ul style="list-style-type: none"> <li>▪ injury requiring bed rest or infirmary stay (e.g., in school medical room or hospital); or</li> <li>▪ loss of consciousness; or</li> <li>▪ broken bone(s)</li> </ul>	<u>permanent or long-term harm:</u> <ul style="list-style-type: none"> <li>▪ injury; or</li> <li>▪ impairment (e.g., physical or mental); or</li> <li>▪ disfigurement</li> </ul>		
STEP 2: SELECT YOUR CLAIM LEVEL				
	Level 2 \$50,000 <input checked="" type="checkbox"/>	Level 3 \$100,000 <input type="checkbox"/>	Level 4 \$150,000 <input type="checkbox"/>	Level 5 \$200,000 <input type="checkbox"/>

# Part 5 - Level 2 Abuse

## Part 5: Claims Process for Levels 2, 3, 4, or 5

**STEP 1:** Identify the ABUSE or HARM you suffered from *teachers, officials, students, and/or other third parties.*

- **For level 3:**
  - ACT:
  - CAUSING
  - HARM:

Abuse / Harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
Sexual Abuse/Harm	At least one sexual incident of any one of:			Repeated sexual incidents of any one of:
	<ul style="list-style-type: none"> <li>▪ touching with sexual purpose;</li> <li>▪ adult(s) exposing themselves;</li> <li>▪ fondling/kissing;</li> <li>▪ nude photos taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ attempted penetration</li> </ul>	<ul style="list-style-type: none"> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>
<b>OR</b>				
Physical Abuse	At least one incident of physical abuse / assault, <u>causing:</u>	At least one incident of physical abuse / assault, <u>causing:</u>	Repeated (at least two) incidents of physical abuse / assault, <u>causing:</u>	During an incident of any one sexual abuse / assault described above at least one incident of physical abuse / assault, <u>causing:</u>
Harm	<b>CAUSING:</b>			
	<u>serious but temporary harm:</u> <ul style="list-style-type: none"> <li>▪ injury requiring bed rest or infirmary stay (e.g., in school medical room or hospital); or</li> <li>▪ loss of consciousness; or</li> <li>▪ broken bone(s)</li> </ul>	<u>permanent or long-term harm:</u> <ul style="list-style-type: none"> <li>▪ injury; or</li> <li>▪ impairment (e.g., physical or mental); or</li> <li>▪ disfigurement</li> </ul>		
<b>STEP 2: SELECT YOUR CLAIM LEVEL</b>				
	Level 2 \$50,000	Level 3 \$100,000	Level 4 \$150,000	Level 5 \$200,000

# Part 5 - Level 2 Abuse

## Part 5: Claims Process for Levels 2, 3, 4, or 5

**STEP 1:** Identify the ABUSE or HARM you suffered from *teachers, officials, students, and/or other third parties.*

- **For level 4:**
  - ACT:  
CAUSING
  - HARM:

Abuse / Harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
Sexual Abuse/Harm	At least one sexual incident of any one of:			Repeated sexual incidents of any one of:
	<ul style="list-style-type: none"> <li>▪ touching with sexual purpose;</li> <li>▪ adult(s) exposing themselves;</li> <li>▪ fondling/kissing;</li> <li>▪ nude photos taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ attempted penetration</li> </ul>	<ul style="list-style-type: none"> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>
OR				
Physical Abuse	At least one incident of physical abuse / assault, <u>causing:</u>	At least one incident of physical abuse / assault, <u>causing:</u>	Repeated (at least two) incidents of physical abuse / assault, <u>causing:</u>	During an incident of any one sexual abuse / assault described above at least one incident of physical abuse / assault, <u>causing:</u>
Harm	CAUSING:			
	<u>serious but temporary harm:</u> <ul style="list-style-type: none"> <li>▪ injury requiring bed rest or infirmary stay (e.g., in school medical room or hospital); or</li> <li>▪ loss of consciousness; or</li> <li>▪ broken bone(s)</li> </ul>	<u>permanent or long-term harm:</u> <ul style="list-style-type: none"> <li>▪ injury; or</li> <li>▪ impairment (e.g., physical or mental); or</li> <li>▪ disfigurement</li> </ul>		
<b>STEP 2: SELECT YOUR CLAIM LEVEL</b>				
	Level 2 \$50,000	Level 3 \$100,000	Level 4 \$150,000	Level 5 \$200,000

# Part 5 - Level 2 Abuse

## Part 5: Claims Process for Levels 2, 3, 4, or 5

**STEP 1:** Identify the ABUSE or HARM you suffered from *teachers, officials, students, and/or other third parties.*

- **For level 5:**
  - ACT:
  - CAUSING
  - HARM:

Abuse / Harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
Sexual Abuse/Harm	At least one sexual incident of any one of:			Repeated sexual incidents of any one of:
	<ul style="list-style-type: none"> <li>▪ touching with sexual purpose;</li> <li>▪ adult(s) exposing themselves;</li> <li>▪ fondling/kissing;</li> <li>▪ nude photos taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ attempted penetration</li> </ul>	<ul style="list-style-type: none"> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>
OR				
Physical Abuse	At least one incident of physical abuse / assault, <u>causing:</u>	At least one incident of physical abuse / assault, <u>causing:</u>	Repeated (at least two) incidents of physical abuse / assault, <u>causing:</u>	During an incident of any one sexual abuse / assault described above at least one incident of physical abuse / assault, <u>causing:</u>
Harm	CAUSING:			
	<u>serious but temporary harm:</u> <ul style="list-style-type: none"> <li>▪ injury requiring bed rest or infirmary stay (e.g., in school medical room or hospital); or</li> <li>▪ loss of consciousness; or</li> <li>▪ broken bone(s)</li> </ul>	<u>permanent or long-term harm:</u> <ul style="list-style-type: none"> <li>▪ injury; or</li> <li>▪ impairment (e.g., physical or mental); or</li> <li>▪ disfigurement</li> </ul>		
<b>STEP 2: SELECT YOUR CLAIM LEVEL</b>				
	Level 2 \$50,000	Level 3 \$100,000	Level 4 \$150,000	Level 5 \$200,000

**STEP 3: Provide SUPPORT for the Level selected by completing sections listed below**

<b>Support</b>	<b>LEVEL 2</b>	<b>LEVEL 3</b>	<b>LEVEL 4</b>	<b>LEVEL 5</b>
Your Written Narrative of events	Complete 5A.			
List of position/ person(s) who inflicted or caused the abuse/harm	Only if available Complete 5B		Required* Complete 5B	
Evidence of School attendance	Required* Complete 5C and attach documents			
Family / Friend narratives or other records	Only if available Complete 5D and attach documents		Required* Complete 5D and attach documents	
Medical, Dental, Nursing or Therapy Records	Only if available Complete 5E and attach documents		Required* Complete 5E and attach documents	

**If claimant does not have required documents they may complete a Sworn Declaration**

## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5A – Your Written Narrative (required)

Please provide in writing a description of the specific event(s) that led to the abuse/harm that you experienced when attending the Day School, related to your Level 2, 3, 4 or 5 claim above. **If you require additional space, please attach pages to your Claim Form and reference this section.**

Please include the following:

- Description of events including names, places and dates (to the best of your ability)
- If applicable: describe medical attention required / sought / received at the time and/or currently as directly related to the abuse/harm suffered at the Day School

Can write as a factual narrative account, a story or however they feel most comfortable.

Can include:

- Some details about the day school, when they attended, how old they were, etc.
- What they remember about the school.
- Details about what happened to them at the school that led to this claim.
- The effect that the abuse had on their life.
- Include any details on medical assistance related to the claim.

## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5B – List of position / person(s) who inflicted abuse/harm

List of position / person(s) who caused abuse/harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required*	

***\* If you are not able to identify the position/person for Levels 4 & 5, complete Part 5F: Sworn Declaration\****

Please provide names / descriptions and/or positions of person(s) (e.g. teaching staff, officials, students and other third parties) who caused abuse/harm to you while you attended the Day School. If you need more space, please attach pages to your Claim Form and reference this section (Part 5B).

**Name / Description**

**and / or**

**Position**

- Can include the name or position of the individual caused act/harm
- Individual (if alive) will not be contacted

## Part 5C – Evidence of Attendance

Attach school records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
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Required\*

**\* If you do not have the required documents for Level 2, 3, 4 and 5, complete Part 5F: Sworn Declaration \***

Please list below and attach to this Claim Form, evidence of your school attendance, including copies of any of your school records issued by the Day School(s) you attended during any of the years of your attendance. Examples may include:

- Report Cards
- Enrolment Forms
- Class Photographs
- Letter(s) from teacher or principal
- Other Records, like yearbook or school articles

List of following record(s) attached to this Claim Form:

- Claimants can submit any document that helps verify their attendance at the school

## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5D – Other narratives and records

Attach Family/ Friend narratives or other records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required *	

**\* If you do not have the required documents for Levels 4 or 5, complete Part 5F: Sworn Declaration \***

Please list below and attach to this Claim Form, copies of other written narratives from friends/family and/or other records that support the events and incident(s) that led to the abuse(s)/harm(s) you experienced while attending the Day School(s). Examples may include:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Family narratives</li> <li>• Friend narratives</li> </ul> | <ul style="list-style-type: none"> <li>• Photographs</li> <li>• Diaries</li> <li>• Other</li> </ul> |
|--|---|

List of narratives / records attached to this Claim Form:

- Claimant can obtain a narrative from a family member or friend who was at the school
- Narrative should support account of acts/harms in the application

## Part 5E – Medical / Dental / Nursing / Therapy Records

Attach Medical, Dental, Nursing and / or Therapy Records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required*	

***\* If you do not have the required documents for Levels 4 or 5, complete Part 5F: Sworn Declaration \****

Please list below and attach to this form any copies of medical, dental, nursing and/or therapy records that support your claim. This may include current or past health records that document the injury you suffered and any lasting effect to this day.

List all records attached to this Claim Form:

- Only records that relate to the claim should be attached.
- Claimants can get a listing of their visits to a medical practitioner in B.C. from MSP.

## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5F – Sworn Declaration (if applicable)

You must complete the following Sworn Declaration only if you are missing one or more of the **required** documents (see p. 8) for **Level 2, 3, 4 or 5**.

A Sworn Declaration is a statement signed by the claimant and any one of the following Guarantors:

- Notary Public or Commissioner of Oaths including Northern Villages' Secretary  
Treasurer
- Elected Official or Community leader (e.g. Chief, Councilor, Inuit Community Leader)
- Other Professional (e.g. Lawyer, Doctor/Physician, Accountant (CPA), Police Officer)

**Above declaration must be witnessed by a Guarantor.**

The Guarantor only needs to see the Claimant sign this page. As Guarantor, you are not required to read the Form or verify the accuracy of the events described in this Form.

**Part 6: Are you applying as a Representative of a Claimant?**  
(if applicable)

A Personal Representative must be either:

- a) Appointed by a Court to manage or make reasonable judgments or decisions in respect of the affairs of the person under disability

OR

- b) The Estate Executor of a Claimant who is deceased on or after July 31, 2007

**Describe your relationship to the Claimant**

**Provide Documentation**

If you are acting as a Personal Representative, you must attach documentation to verify your eligibility to act on the Claimant's behalf. Examples include:

- a) an Executor, for a Claimant who is deceased, including a Death Certificate and a Will, Revenue Québec Estate Form or Court Order appointing you as the Estate Administrator for the deceased Claimant;

OR

- b) for a Claimant who is under disability, this may include evidence that you have Power of Attorney over the Claimant's finances.

List the attached documentation you have submitted:

### Part 3: Claimant and Witness Signatures

**Claims Administrator and Independent Assessor:** I recognize that the Administrator and Independent Assessor **do not**:

- represent the Day Schools or Canada;
- act as an agent or legal counsel for any party, and do not offer legal advice; and,
- have any duty to identify or protect legal rights of any party, or to raise an issue not raised by any party.

**Privacy:** I understand that it may be necessary:

- for the Administrator to disclose information provided in this Claim for verification to Canada, the Independent Assessor; the Exceptions Committee (if applicable); and,
- for Canada to disclose information in its possession to: the Administrator; the Independent Assessor; the Exceptions Committee (if applicable).

**Information in Claim Form:** I confirm that all of the information provided in this Claim Form is true to the best of my knowledge. Where someone helped me complete this Claim Form, that person has read to me everything they wrote and included with this Claim Form.

**Class Counsel and legal advice:** I understand that free legal advice is available from Gowling WLG by contacting [dayschools@gowlingwlg.com](mailto:dayschools@gowlingwlg.com) or 1-844-539-3815.

**Consent:** *I understand that by signing this Claim Form and submitting it to the Claims Administrator, I am consenting to the above, and to the disclosure of my personal information to be used and disclosed in accordance with the Settlement.*

**Other/Prior Settlement (required):**

Please check YES / NO to this question: you have already received money from Canada for the same abuse/harm at a Federal Indian Day School(s) or Federal Day School(s) as described in this Claim Form. **This does not include Indian Residential Schools payments. If you are unsure, contact Class Counsel.**

Yes

No

**Signature of Claimant (required)**

Date

## Submission Process – Claim Due By **Month Day, Year**

**Before sending, please make sure your Claim Form package includes the following:**

- Claimant name and contact information in Part 1
- Names and details for School(s) attended by the Claimant in Part 2
- Signatures of Claimant and Witness in Part 3
- Selected ONE claim Level 1-5:
  - Level 1 –  
Verbal/Physical Abuse/Harm:
    - ticked the box on p. 6 in Part 4
  - OR**
  - Levels 2, 3, 4, or 5 –  
Sexual/Physical Abuse/Harm:
    - ticked one box on p. 7 and
    - completed Part 5 including **written narrative** (p.9 ), and
    - **attached documents** or had a guarantor sign the claim form (p 11)
- For Representatives**, completed Part 6 only if you are a representative submitting this claim on behalf of Claimant

**PLEASE SEND YOUR CLAIM PACKAGE TO:**  
Day Schools Class Action Claims Administrator, c/o Deloitte

# Legal Support for Claimants

**If you have legal questions relating to the application such as:**

- **Applicant's legal rights**
- **Eligibility of applicant**
- **Compensation for particular act/harm**
- **Document requirements**

**Contact the Class Counsel for legal advice at no cost: to you from Class Counsel, Gowling WLG**

- [dayschools@gowlingwlg.com](mailto:dayschools@gowlingwlg.com) or 1-844-539-3815.

# Health Support for Claimants

Atira Women's Resource Society Programs for Indigenous women living in Vancouver. One-to-one counselling, emotional support and advocacy services available. 604.331.1407

Battered Women's Support Services Programs for Indigenous women including group and one-to-one counselling as well as victims' services. No waitlist. 1.855.687.1868

BC Society for Male Survivors of Sexual Abuse Trauma therapy and victims' services offered on a sliding scale basis. 604.682.6482

Crisis Line Association of BC 310 Mental Health Support Line Callers can receive emotional support, information and resources specific to mental health. CRISIS LINE 1-800 SUICIDE (310.6789) 1.800.784.2433

First Nations Health Authority Mental wellness, substance use and traditional healing programs. 604.693.6500

Hope for Wellness Help Line Help line offers immediate mental health counselling and crisis intervention to all Indigenous peoples across Canada. 1.855.242.3310

KUU-US Crisis Line Society 24-hour Aboriginal crisis line 1.800.588.8717

Metro Vancouver Indigenous Services Society Support groups, individual/family counselling and community healing. 604.255.2394

Access and Assessment Centre 24 phone line and drop-in centre to assist people in accessing mental health and/or substance use services. 604.675.2551 604.730.0188 604.675.3700

VictimLinkBC 24/7 phone line providing information and referrals to all victims of crime and immediate crisis support to victims of family and sexual violence. 1.800.563.0808 WAVAW Rape

Crisis Centre Programs for Indigenous women including group and one-to-one counselling as well as victims' services. No waitlist. 1.877.392.7583

Aboriginal Financial Officers Association Of B C Help in managing financial matters. 604.925.6370

## SCHEDULE K - INDIAN DAY SCHOOLS LIST

Province	School Name	Name Variants	Opening Date	Closing or Transfer Date	Location	Religious Affiliation
Alberta	<b>Alexander</b>		November 1949	1981-1982*	In Riviere qui Barre	Roman Catholic
Alberta	<b>Alexis</b>	Glenevis	June 1949	After 1988*	Located on the Alexis Reserve	Roman Catholic
Alberta	<b>Assumption Day</b>		September 9, 1968	September 1, 1971	Assumption, Alberta on Hay Lakes Reserve	Roman Catholic
Alberta	<b>Atikameg</b>		1948/49*	September 1, 1962	Atikameg, AB; Atikamisie Indian Reserve; Atikameg Lake, AB	Roman Catholic
Alberta	<b>Beaver Lake</b>		September 1952 June 1972*	June 30, 1960 June 1973*	Lac La Biche, AB	Roman Catholic
Alberta	<b>Big Horn</b>	Bighorn Ta Otha Taotha	July 8, 1948	Between February 1988 and January 1994*	Located on the Big Horn Reserve near Rocky Mountain House	Mennonite United Church
Alberta	<b>Bishop Piché School</b>	Fort Chipewyan Chipewyan	September 1, 1956* December 1971*	June 30, 1963 March 31, 1986	Fort Chipewyan, AB	Roman Catholic
Alberta	<b>Boyer River</b>		September 1955	September 1964	Rocky Lane, AB	Roman Catholic
Alberta	<b>Cold Lake</b>	Legoff LeGoff Day School Legoss Day School	September 1953	1990*	At Beaver Crossing on the Cold Lake Reserve	Roman Catholic
Alberta	<b>Crowfoot</b>	Blackfoot	December 31, 1968	Between 1987/1988 and January 1994*	Siksika Nation, Alberta	Roman Catholic
Alberta	<b>Driftpile</b>		September 30, 1955	September 1, 1964	Faust, AB (Driftpile Reserve)	Roman Catholic
Alberta	<b>Eden Valley</b>		February 8, 1949	September 1, 1990	Eden Valley Indian Reserve No. 126	United Church Anglican Church
Alberta	<b>Ermineskin Elementary/Junior High</b>	Ermineskin Day School	September 1968	September 1991	Ermineskin Reserve	Roman Catholic

Alberta	<b>Ermineskin Kindergarten</b>		1971*	September 1991	Ermineskin Reserve	Roman Catholic
Alberta	<b>Ermineskin Primary</b>		September 1969*	September 1991	Ermineskin Reserve	Roman Catholic
Alberta	<b>Fort McKay</b>	McKay Fort Mackay	August 1949*	June 30, 1963	Was near Fort McMurray, not on the reserve	Roman Catholic
Alberta	<b>Fox Lake</b>		1957/1958*	September 1, 1964	On the Fox Lake Reserve, Vermilion Agency	Roman Catholic
Alberta	<b>Frog Lake</b>	Napayo Napaya Napewow Napeweaw	September 1975	1985-1986*	Frog Lake, Alberta	
Alberta	<b>Frog Lake (AC)</b>		September 1914	September 1975	Frog Lake, Alberta	Anglican Church
Alberta	<b>Frog Lake (RC)</b>		September or October 1956	September 1975	Frog Lake, Alberta	Roman Catholic
Alberta	<b>Gooderham</b>	Wabamum/Wabamun Duffield Paul's Paul's Elementary	1950*	Between 1975 and 1976*	Located on the Wabamun Reserve	United Church
Alberta	<b>Goodfish Lake (RC)</b>	Pakan	September 1953	Between 1994 and 1998*	Located in Saddle Lake, Alberta, on the Goodfish Lake Reserve	Methodist Roman Catholic
Alberta	<b>Habay</b>		August 1962*	September 1965	Located in the village of Habay at the Hay Lake Reserve	Roman Catholic
Alberta	<b>Heart Lake School</b>		January 1973* September 1981*	October 26, 1978 September 1986*	Lac La Biche, AB	
Alberta	<b>Hobbema No. 1</b>		September 1949	1964/1965*	In the community of Hobbema	Methodist United Church
Alberta	<b>Hobbema No. 2</b>		September 1950	April 1957	On the Samson Reserve	Roman Catholic
Alberta	<b>Hobbema No. 3</b>	Montana	1950*	June 1973	Located on Montana Reserve	Baptist
Alberta	<b>Horse Lake</b>		September 1952*	September 1959	Fort St. John Agency, AB	Roman Catholic
Alberta	<b>Janvier</b>		December 1950*	July 1, 1963	Janvier Indian Reserve near Chard, AB	Roman Catholic

Alberta	<b>Levern</b>	Glenwood Lavern	1964*	September 1, 1988	In Glenwood, Alberta on the Blood Reserve	Roman Catholic
Alberta	<b>Long Lake</b>	Kehewin Keeheewin Kahwin Kehiwin	1918*	Sep-64	On the Kehewin Reserve No. 123 in Alberta	Roman Catholic
Alberta	<b>Louis Bull</b>	Bear's Hill School	1888/1889 September 1950*	June 1927 September 1, 1960	Louis Bull Reserve	Methodist (1888-1924) Baptist (1950-1960) Roman Catholic (1950- 1956)
Alberta	<b>Michel</b>		Septebmer 1948	September 1955	Michel Indian Reserve	Roman Catholic
Alberta	<b>Montana Kindergarten</b>		September 1991	September 1, 1992	Located on Montana Reserve	
Alberta	<b>Morley Indian Day School</b>	Morleyville David Bearspaw Bers Paw	1873 - The Morley Day School opened  1951 - The new Morley Day School opened  1969 - The IRS closed and the day school continued to operate	1929 - All Day Students were attending the Morley Residential School  1954 - The school amalgamated with the Morley IRS  August 31, 1986	Morley Reserve	Methodist United Church
Alberta	<b>Namew</b>		September 1959	January 1970*	Calais,AB	Roman Catholic
Alberta	<b>Nordegg</b>	Rocky Mountain House	1955/1956 1970/1971*	1967 1973	Rocky Mountain House	Mennonite
Alberta	<b>Old Sun</b>	Chief Old Sun	September 1971	Between March 1983 and January 1994*		
Alberta	<b>Pakan</b>	Goodfish Lake (UC)		1968	Located in Saddle Lake, Alberta, on the Goodfish Lake Reserve	United Church
Alberta	<b>Peigan (AC)</b>	Peigan #1, Brocket Day School	September 1995	June 1970*	In Brocket on the Peigan Reserve	Anglican Church

Alberta	<b>Peigan (RC)</b>	Peigan #2	1950*	September 1, 1986	In Brocket on the Peigan Reserve	Roman Catholic
Alberta	<b>R.B. Steinhauer School</b>	Steinhauer, R.B. Steinhauer School, R.B Stein Mission Protestant Day School	1952*	March 1960*	On the Saddle Lake Reserve	United Church
Alberta	<b>Saddle Lake (RC)</b>	Saddle Lake (#1) Onchaminahos	1881 September 1949	April 30, 1924 1980*	Located on the Saddle Lake reserve	Methodist Roman Catholic
Alberta	<b>Saddle Lake (UC)</b>	Saddle Lake (#2)	January 1888	June 30, 1924	Located on the Saddle Lake reserve	United Church
Alberta	<b>Samson</b>	Battle River Hobbema # 2	1899 September 1960	June 29, 1926 June 7, 1973*	Samson Reserve	United Church
Alberta	<b>Sarcee</b>		January 25, 1922	September 1, 1961*	On the Sarcee	Anglican Methodist United Church Mennonite Roman Catholic
Alberta	<b>St. Mary's</b>	Blood	April 1969		On the Blood Reserve	Roman Catholic
Alberta	<b>Standoff</b>		September 14, 1953	September 1, 1988	At Standoff, on the Blood Reserve	Roman Catholic
Alberta	<b>Stoney Plain</b>	Stony Plains Stony Plain Winterburn	1949*	1977*	Stony Plain Reserve	Roman Catholic
Alberta	<b>Sunchild Cree</b>	Sunchildcree Sunchild Mission Sunchild O'Chiese Stelfox Henry Stelfox Rocky Mountain House	January 1950	Between 1994 and 1998	In Rocky Mountain House on the Sunchild Cree Indian Reserve	United Church Mennonite
Alberta	<b>Upper Hay River</b>	Meander River	1950-1951	September 1, 1971	Meander River, AB	Roman Catholic
Arctic Quebec	<b>Fort Chimo</b>	Fort Chimo Anglican Mission School	October/November 1949	1979/80*	Fort Chimo, QC	Anglican Church

Arctic Quebec	<b>George River</b>	George River Seasonal School Government School George River Port-Nouveau-Quebec	July 10, 1959	June 30, 1978*	At George River, QC	Anglican Church
Arctic Quebec	<b>Great Whale River School</b>	Post-de-la-Baleine Great Whale Federal Day School	March 12, 1958	September 1, 1978	Eastern coast of Hudson Bay in Quebec	Anglican Church
Arctic Quebec	<b>Inuvik</b>	Ivayuvik Ivuyivik Notre-Dame d'Ivugivik School Ivujivik	September 22, 1960	1982/83*	At Inujivik, QC	
Arctic Quebec	<b>Koartac School</b>	Koartak Notre-Dame de Koartac School	October 11, 1960	1976*	Koartak, QC	
Arctic Quebec	<b>Maricourt School</b>	Wakehan	1964*	1972*	South shore of Hudson Strait, QC	
Arctic Quebec	<b>Payne Bay</b>	Bellin School	September* 1960	September 1, 1978	Payne Bay, QC	Protestant
Arctic Quebec	<b>Port Harrison</b>	Inocedjouac School Inoudjouac	January 1950*	June 1973*	Port Harrison, QC	
Arctic Quebec	<b>Povungnituk</b>	Povungnetuk	1958	September 1, 1972	Povungnetuk, QC	Anglican Church
Arctic Quebec	<b>Sugluk</b>	Saglouc	October 1957*	July 1, 1978	Sugluk, 62° 14'N 73° 30'W, on Hudson Strait, QC	Roman Catholic
Arctic Quebec	<b>Wakeham Bay</b>	Wakeham Bay Government School	September 26, 1960	June 30, 1978*	Wakeham Bay	Anglican Church
British Columbia	<b>Adams Lake</b>	Chase	October 1956*	September 1971	Adjacent to the Adams Lake village, on the Adams Lake Indian Reserve.	Roman Catholic
British Columbia	<b>Ahousaht</b>	Ahouset	February 1940	September 1985	At Ahousaht Indian Reserve	United Church Presbyterian Church Roman Catholic

British Columbia	<b>Aiyansh</b>	New Aiyansh	1964	1974/1975	Located on the Aiyansh Indian Reserve, about 80 miles north of Terrace, B.C.	Anglican Church
British Columbia	<b>Alert Bay</b>		1881-1883	June 1969	On the Nimpkish Indian Reserve No. 1A	Anglican Church
British Columbia	<b>Alkali Lake</b>	Alkali Lake Community School	November 1957	September 1979	On Alkali Lake Indian Reserve No. 1, approximately 35 miles south of Williams Lake, B.C.	Roman Catholic
British Columbia	<b>Anahim Lake</b>	Upper Dean River	September 1947	September 1973	On Squinas (Anahim Lake) Indian Reserve No. 2.	Roman Catholic
British Columbia	<b>Bella Bella</b>		1882*	September 1, 1976	Bella Bella Reserve No. 1, Campbell Island, B.C.	Methodist Church United Church
British Columbia	<b>Bella Coola</b>		October 1902	Between 1955-1956*	Bella Coola Reserve, Bella Coola, B.C.	Methodist Church United Church
British Columbia	<b>Blueberry River</b>		September 1962	September 2, 1975	64 miles from Fort St. John, and 12 miles from the nearest non-Indian school	Roman Catholic
British Columbia	<b>Bonaparte School</b>		November 2, 1958	June 1962*	On Bonaparte Indian Reserve No. 3A	Roman Catholic
British Columbia	<b>Boothroyd</b>		May 1, 1915	December 31, 1945	On the Boothroyd Indian Reserve, near the town of Lytton	Anglican Church
British Columbia	<b>Campbell River</b>		November 18, 1935	1955*	At Campbell River	United Church
British Columbia	<b>Canim Lake</b>		September 1957*	January 14, 1969	In Canim Lake, via Exeter, B.C.	Roman Catholic
British Columbia	<b>Canoe Creek</b>	Canoe Lake (likely an error as Canoe Lake is an SK IDS)	1961* September 1966	November 1964 At least 1977*	At Canoe Creek Indian Reserve about 40 miles west of Mile 70, Caribou Highway, B.C.	Roman Catholic

British Columbia	<b>Canyon City</b>	Gwinoha Kitwilluckshilt	April 1, 1911	June 24, 1971*	On the Gwinaha (Kitwilluckshilt) Reserve	Salvation Army
British Columbia	<b>Cape Mudge</b>		1892/1893	September 1, 1958*	On Quadra Island opposite Campbell River	United Church
British Columbia	<b>Capilano</b>	Capilano Nursery	September 1959*	June 1968	North Vancouver	Roman Catholic
British Columbia	<b>Caribou Hide</b>	Cariboo Hyde	October 15, 1938	1950/1951*	Located "250 miles Trail S.E., Telegraph Creek, B.C.	
British Columbia	<b>Chehalis</b>	Chehahlis	October 1, 1916	Between June 1978 and September 1980*	Near the village of Harrison Mills, Lower Fraser Valley	Roman Catholic
British Columbia	<b>Chemainus Bay</b>		December 1955	September 1964*	Kulleets Bay	Roman Catholic
British Columbia	<b>Chilcotin</b>	Anaham Tl'atinqox	August 1944	September 1992*	On the Anaham Indian Reserve	Roman Catholic
British Columbia	<b>Deadman's Creek</b>		1954/1955*	October 1966	Savona, B.C	Roman Catholic
British Columbia	<b>Dease Lake</b>		June 4, 1937	January 31, 1945	At Dease Lake, B.C.	Roman Catholic
British Columbia	<b>Doig River</b>		1950	December 1966		Roman Catholic
British Columbia	<b>Douglas</b>	Port Douglas	September 1950	December 1961	On the Douglas Indian Reserve at the north end of Harrison Lake	Roman Catholic
British Columbia	<b>Fort Babine</b>	Babine Fort Babine (Morictown)	September 1, 1913	September 1983	At Fort Babine Indian Reserve No. 6 – North end of Babine Lake	Roman Catholic
British Columbia	<b>Fort Graham</b>	Fort Grahame	1935	1940	Located on the Fort Grahame Indian Reserve	Roman Catholic
British Columbia	<b>Fort McLeod</b>	McLeod Lake McLeod's Lake	1935	1949*	Cariboo District	
British Columbia	<b>Fort Nelson</b>	Fort Nelson Pre- School	September 1961	June, 1966	Fort Nelson Reserve	Roman Catholic
British Columbia	<b>Fort Rupert</b>		July 1880	June 1931*	Lejac, B.C.	Anglican Church

British Columbia	<b>Fort St. James</b>		January 1951*	June 30, 1970	On Necoslie Reserve No. 1, at the east end of Stuart Lake, 40 miles north of Vanderhoof and 110 miles from Prince George	Roman Catholic
British Columbia	<b>Fort Ware</b>	Aatse Davie	September 1963	Between 1994-2000*	Fort Ware Indian Reserve No. 1 near Ware, B.C.	Roman Catholic
British Columbia	<b>Fountain</b>		December 1950*	June 1968	Located 4 miles north of Lillooet	Roman Catholic
British Columbia	<b>Gilford Island</b>	Gilford Day School	September 1, 1950	June 1968	Located on Gilford Island (Guayasdums) Reserve, Simoon Sound, near Alert Bay	Anglican Church
British Columbia	<b>Gitlakdamix</b>	Gitladamicks, Gitladamicks, Gitladamiks, Gitladamiksh, Gitlakdamiks, Kitladamox, Kitlacadamax, Kitladamiks and Kitladamicks	January 1909	August 31, 1968	On the Gitladamiks (Kitladamax) Indian Reserve	Anglican Church
British Columbia	<b>Glen Vowell</b>		1899	Between December 31, 1968 and December 8, 1970*	Located at Glen Vowell near Hazelton on the Upper Skeena River	Salvation Army
British Columbia	<b>Halfway River</b>		1950	September 1994*	Approximately 120 kilometres northwest of Fort St. John, British Columbia, or 50 kilometres south and west of Wonowon, British Columbia	Roman Catholic

British Columbia	<b>Hartley Bay</b>	Hartley Day School	1905	August 1979	Located at Hartley Bay Indian Reserve, on the entrance of Douglas Channel, near Kitimat, British Columbia	Methodist United Church
British Columbia	<b>Hazelton</b>		1889	June 1950	In Hazelton, B.C	Anglican Church
British Columbia	<b>Homalco</b>	Church House Indian Day School	August 1908 September 9, 1959	September 1952 1978*	Located on the Homalco Indian Reserve, about 30 miles north of Powell River	Roman Catholic
British Columbia	<b>Irish Creek</b>		September 1951	September 1962	Vernon, B.C. Okanagan Indian Reserve No. 1	Roman Catholic
British Columbia	<b>Katzie</b>	Katsie	August 1914*	September 1942*	Hammond, B.C.	Roman Catholic
British Columbia	<b>Kincolith</b>	Nass River School	1884	November 6, 1975	In Kincolith, "at the mouth of the Nass River"	Anglican Church
British Columbia	<b>Kingcome Inlet</b>		March 1929 September 1951	January 1944 September 1981	Quaae Indian Reserve #7	Anglican Church
British Columbia	<b>Kisgegas</b>		January , 1901	February, 1942	Hazelton, B.C	Anglican Church
British Columbia	<b>Kispiox</b>	Kishpiox Kispioux Kishpiox Kishpiax Kisfiax	1892	September 1, 1981	Situated on the Kishpiax reserve	Methodist United Church
British Columbia	<b>Kitamaat</b>	Kitimaat Kitimat Kitamat	1902	September 1985	On Douglas Channel, at the mouth of the Kitamaat river	Methodist United Church
British Columbia	<b>Kitkatla</b>	Kitkahtla Lach Klan	1891	August 1979	In the village of Kitkatla	Anglican Church

British Columbia	<b>Kitsegukla</b>	Gitsegukla Kits Kitsegucala Kitsequkla Sheena Crossing	1897 September 1947	January 1945 1986		Methodist United Church
British Columbia	<b>Kitselas (New Town)</b>		1904/1905	February 1959*	Located at Copper River, B.C.	Methodist United Church Salvation Army
British Columbia	<b>Kitwancool</b>	Kitwancoo Gitanyow	September 1938	July 31, 1986	13 miles by road from Kitwanga, B.C., and 45 miles from Hazelton, B.C.	United Church Anglican Church
British Columbia	<b>Kitwanga</b>	Kitwanger, Kitwinger, Gitwingak	December 1898	1975		Anglican Church
British Columbia	<b>Klappan</b>	Klappen	October 1936 September 1962	April 1949 September 1989	Iskut, BC	Roman Catholic
British Columbia	<b>Klemtu</b>	China Hat	December 1903	December 1979	Kitasoo Reserve	Methodist Church (1903-1925) United Church (1926-1974)
British Columbia	<b>Kluskus</b>		September 1980	June 1983	100 miles west of Quensel, BC	None
British Columbia	<b>Koksilah</b>		1906	August 1953	Near Duncan, BC	Methodist Church (1906-1922)
British Columbia	<b>Kuper Island</b>		September 1, 1968	September 1987		
British Columbia	<b>Kyuquot</b>	Kyuoquot, Kyuquaht, Kyuquat, Aktis Day School	1882/1883	Between March 1974 and February 1977*	Kyuquot, B.C	Roman Catholic
British Columbia	<b>Lakalsap</b>	Nass River Greenville Lakalzap	1877-1878	May 1975	Lakalsap (Greenville) Indian Reserve No. 9	Methodist Church (1877-1904) Anglican Church (1904-1974)
British Columbia	<b>Lower Post</b>		September 1, 1969	June 30, 1975	Watson Lake	
British Columbia	<b>Mamalillikula</b>	Mamalillikulla, Village Island	May 1928*	September 1964*	Village Island I.R. No. 1	Anglican Church

British Columbia	<b>Masset</b>	Masset, Old Masset Village School	1877/1878	Between February and May 1974*	Masset, B.C.	Anglican Church
British Columbia	<b>McDames</b>	McDame McDames Creek	1931	1944	Cassiar District	Roman Catholic
British Columbia	<b>Metlakatla</b>	Metlakahtla, Metlakalta	1893/1894	June 1960	Near Prince Rupert	Anglican Church
British Columbia	<b>Moricetown</b>		January 10, 1938	July 1, 1959	On Moricetown Indian Reserve No. 1	Roman Catholic
British Columbia	<b>Mount Currie</b>	Pemberton	January 1, 1939	September 1, 1973	On Mount Currie Indian Reserve No. 10	Roman Catholic
British Columbia	<b>Nanaimo</b>	Nass River	1877	1964	On on Nanaimo town Reserve No. 1	Methodist Church (c.1872-1925) United Church (c.1927-1964)
British Columbia	<b>Nazko</b>	Nazko Kluskus Kindergarten	January 1, 1955	November 5, 1969	At Nazko via Williams Lake, B.C.	Roman Catholic
British Columbia	<b>Neskainlith</b>		September 1949	September 1, 1963*	On the Neskainlith (Aniskamilith) Indian Reserve at Shuswap, B.C.	Roman Catholic
British Columbia	<b>Nootka</b>	Friendly Cove Day School Yuquot Yugot	1904/1905	June 30, 1968		Roman Catholic
British Columbia	<b>Okanagan</b>	Okanagan Day School Six Mile Creek	1923 January 1947	June 1945 February 1968	On Okanagan Indian Reserve No. 1.	Roman Catholic
British Columbia	<b>Old Fort Babine</b>		October 1, 1938	May 1940	On the Old Fort Babine Reserve, about 30 miles S.E. of Fort Babine.	Roman Catholic
British Columbia	<b>Opitsaht</b>	Opetaht	October 1957*	July 1971*		Roman Catholic
British Columbia	<b>Osoyoos</b>	Inkameep, Inkaneep	April , 1915	1953	On the Inkameep Indian Reserve, near Oliver, BC	Roman Catholic
British Columbia	<b>Penticton</b>	Penticton Indian Day School	June 1922	September 1963*	On the Penticton Indian Reserve No. 1 at the foot of Okanagan Lake	Roman Catholic

British Columbia	<b>Port Edward</b>	Port Edward Cannery	February 1945*	June 1949	In Port Edward, British Columbia	None
British Columbia	<b>Port Essington</b>		December 1885	August 1947	On the Skeena Reserve at Port Essington, B.C.	Methodist Church (1887-1925) United Church (1926-1947)
British Columbia	<b>Port Simpson</b>	Fort Simpson Lax Kw'alaams	1875	September 1975*	At Port Simpson, approximately 25 miles from Prince Rupert	Methodist Church (1875-1925) United Church (1925-at least 1974)
British Columbia	<b>Portage</b>	Stuart-Trembleur	October 1975	September 1990	On the Nancut Indian Reserve	None
British Columbia	<b>Prophet River</b>		1946	September 1994*	On Prophet River Reserve	Roman Catholic
British Columbia	<b>Quatsino</b>	Koskemo	September 1935 September 1948	September 1941 September 1, 1965	Quattishe Indian Reserve No. 1	Anglican Church
British Columbia	<b>Quilchena</b>		February 8, 1960	September 1, 1971	Quilchena, B.C.	Roman Catholic
British Columbia	<b>Redstone Meadows</b>	Red Stone Meadows Redstone Alexis Creek	November 1, 1943 September 1959	March 1952 1966*	Redstone Flats Indian Reserve No. 1	Roman Catholic
British Columbia	<b>Roche Déboulé</b>	Rocher Deboule Rocher de Boule Hagwelgett	January 3, 1911	July 1, 1960	New Hazelton, B.C	Roman Catholic
British Columbia	<b>Saanich</b>	East Saanich Saanich Catholic	December 1941	July 1, 1951	At East Saanich, B.C	Roman Catholic
British Columbia	<b>Sea Bird</b>	Seabird Island Day School	September 1923*	June 1968	East of Agassiz	Roman Catholic
British Columbia	<b>Seton Lake</b>	Shalalth Seton Lake Nursery-Kindergarten	January 1925	September 1975	Slosh Indian Reserve No. 1	Roman Catholic
British Columbia	<b>Shell Beach</b>		September 1955*	October 1965	Ladysmith, B.C	Roman Catholic
British Columbia	<b>Shesley</b>	Shesley, Telegraph Creek	October, 1946	1956*	At Shesley, British Columbia	Roman Catholic
British	<b>Shulus</b>	Sholus	August, 1908	1976*	Lower Nicola, B.C.	Anglican Church

Columbia						
British Columbia	<b>Skidegate</b>		1894	August 1965	Five miles east of Queen Charlotte City	Methodist Church United Church
British Columbia	<b>Skwah</b>	Chilliwack	March 1914	July 11, 1956	One mile north of Chilliwack, BC	Anglican Church
British Columbia	<b>Sliammon</b>		January 1909	September 1960*	In Powell River, B.C.	Roman Catholic
British Columbia	<b>Smith's Inlet</b>	Takush	December 1928 December 1950	June 1939 1964*	Indian Reserve No. 3 at Takush Harbour, Smiths Inlet	United Cchurch
British Columbia	<b>Snowcap</b>	Day School at Skookumchuck	October 1961*	July 1966	On the Skookumchuck Indian Reserve at Skookumchuck, B.C	Roman Catholic
British Columbia	<b>Songhees</b>	Songhees Indian Day School	1891	June 1965	Victoria	Anglican Church (1891) Roman Catholic (1892-1911, 1913-1965)
British Columbia	<b>St. Catharine's</b>	Ste. Catherine's Cowichan Indian Day School	September 1, 1923	September 1, 1973	Cowichan Indian Reserve No. 1	Roman Catholic
British Columbia	<b>St. Paul</b>	St. Paul's Indian Day School Squamish Day School	September 1959	September 1, 1973.	North Vancouver	Roman Catholic
British Columbia	<b>Stone</b>		December 1963	September 1989	On the Stone Indian Reserve	Roman Catholic
British Columbia	<b>Stoney Creek</b>	Stony Creek	February 1947	September 1, 1988*	Near Valocated 10 miles southwest of Vanderhoof	Roman Catholic
British Columbia	<b>Sugar Cane</b>	(Williams Lake) Sugar Cane Indian Day School	January 1, 1955	August 7, 1967	At Williams Lake, BC	Roman Catholic
British Columbia	<b>Tache</b>	Tatshe Indian Day School Tachie Taché Eugene Joseph	November 1963	September 1, 1990*	On the Tache Indian reserve	Roman Catholic

British Columbia	<b>Tahlitan</b>		June 1934	August 31, 1943	Near Telegraph Creek	Anglican Church
British Columbia	<b>Takla Landing</b>	Takla Lake	1937/1938	Between September 1994 and December 1995	North Takla Lake Indian Reserve No. 7	Roman Catholic
British Columbia	<b>Tanaktouk</b>		September 1957	June 30, 1969	Deadpoint Indian Reserve No. 5	Anglican Church
British Columbia	<b>Telegraph Creek</b>		September 1906*	July 1950	Telegraph Creek, British Columbia	None
British Columbia	<b>Tsartlip</b>	West Saanich School Tsartlip Consolidated School	October 1, 1931	September 1, 1988	On the Tsartlip Reserve	Roman Catholic
British Columbia	<b>Turnour Island</b>		September 1948*	August 1965*	On Karlukwees I.R. No. 1 on Turnour Island, British Columbia	Anglican Church
British Columbia	<b>Ucluelet</b>		1894/1895 January 1927 September 1948	June 1925 September 1943 June 1966*	Ittatsoo Reserve No. 1	Presbyterian Church (1894-1925) United Church (1927-1951)
British Columbia	<b>Ulkatcho Seasonal School</b>		Summer 1940	Fall 1943*	On Ulkatcho Indian Reserve No. 2. Located on the Upper Dean River some 82 miles north-westerly from Takla Lake Post Office.	Roman Catholic
British Columbia	<b>Upper Nicola</b>	Douglas Lake	January 1954	July 1970	On Upper Nicola Indian Reserve # 3 (Douglas Lake)	Roman Catholic
British Columbia	<b>Westholme</b>		November 1949	September 1964*	On Halalt Reserve No. 2.	Roman Catholic
Manitoba	<b>Anama Bay</b>		1980*	September 1981	Dauphin River Reserve; Gypsumville, Manitoba	
Manitoba	<b>Berens River (RC)</b>	Berens River No. 003	August 1918	Consolidated with Berens River No. 002 in 1966*	Berens River, Manitoba	Roman Catholic

Manitoba	<b>Berens River (UC)</b>	Berens River No. 002	1901*	Consolidated with Berens River No. 003 in 1966*	Berens River, Manitoba	Methodist United Church
Manitoba	<b>Big Eddy</b>	Carrot River	1884	September 1965	The Pas, Manitoba	Anglican Church
Manitoba	<b>Birdtail Sioux</b>	Birdtail Bird Tail	1958* January 1975	September 1, 1963 1976*	Birdtail Sioux Indian Reserve Uno, Manitoba	Presbyterian
Manitoba	<b>Bloodvein (Interdenominational)</b>	Miskooseepi	September 1967	Between April 1980 and March 1983	Bloodvein Indian Reserve, Manitoba	Interdenominational
Manitoba	<b>Bloodvein River (Mennonite)</b>	Bloodvein Mennonite Bloodvein Protestant	1964	1967	Bloodvein Indian Reserve, Manitoba	Mennonite
Manitoba	<b>Bloodvein River (Methodist)</b>		1910	1921		Methodist
Manitoba	<b>Bloodvein River (RC)</b>		September 1937	September 1967	Bloodvein Indian Reserve, Manitoba	Roman Catholic
Manitoba	<b>Bloodvein River (UC)</b>		Before 1920	Between 1939 and October 1956		Methodist United Church
Manitoba	<b>Brokenhead</b>	Broken Head	1875*	April 1970*	Brokenhead Reserve, Scanterbury, Manitoba	Anglican Church
Manitoba	<b>Chemawawin</b>	Cedar Lake	1884	1963*	Cedar Lake, Manitoba	Anglican Church
Manitoba	<b>Churchill (AC)</b>		1963	June 30, 1966	Churchill, Manitoba	Anglican Church
Manitoba	<b>Churchill (Seasonal)</b>	St. Paul's Churchill Indian School	1934	1940	Fort Churchill, Manitoba (1934-1938); Long Point Winter Camp (1939-1940)	Anglican Church
Manitoba	<b>Cross Lake (RC)</b>	Natimik	1903	September 1, 1969	Cross Lake, Manitoba	Roman Catholic
Manitoba	<b>Cross Lake (UC)</b>	Wapak	July 1, 1893	September 1, 1969	Cross Lake, Manitoba	United Church
Manitoba	<b>Cross Lake Junior High School</b>			September 1, 1969		

Manitoba	<b>Cross Lake School</b>	Natimik North Natimik South Wapak Cross Lake Junior High School Wapak Junior High Saggitowack Nekopak Otter Nelson River School	September 1, 1969	1988	Cross Lake, Manitoba	Non-Denominational
Manitoba	<b>Easterville</b>	E.J. Johnson Chemawawin	1964	1981*	Easterville, Manitoba	Anglican Church
Manitoba	<b>Ebb and Flow Lake North</b>		1954*	September 1968	Ebb and Flow Indian Reserve, Manitoba	Roman Catholic
Manitoba	<b>Ebb and Flow Lake South</b>		1885	June 30, 1967	Ebb and Flow Indian Reserve, Manitoba	Roman Catholic
Manitoba	<b>Fairford</b>	Fairford No. 001 Fairford No. 001A, Fairford No. 022 (District 506), Fairford No. 022 , Fairford No. 022C, Fairford B No. 022	1967*	1970*	Fairford, MB	
Manitoba	<b>Fairford #1 (Lower)</b>	Fairford #1A, Fairford #1 No. 510, Fairford No. 510, Fairford 510A, Fairford 510B, Fairford 510C, Fairford 510D	1950*	1966*	Fairford, MB	Anglican Church
Manitoba	<b>Fairford #2 (Upper)</b>	Fairford #2, Fairford #2 No. 590	1950*	1965*	Fairford, MB	Anglican Church

Manitoba	<b>Fairford #3</b>	Fairford #3 No. 558, Fairford West No. 558	1951*	1963*	Fairford, MB	Anglican Church
Manitoba	<b>Fisher River</b>		Septmber 1918	1984	Koostatak, Manitoba	Methodist United Church
Manitoba	<b>Fort Alexander #1 - (AC)</b>	Upper Protestant Prot-Day School	1873	September 1966*	Fort Alexander Indian Reserve, Manitoba; documents describe the school's location on the south side/bank of the Winnipeg River	Anglican Church
Manitoba	<b>Fort Alexander #2 - (RC)</b>	North Shore School	September 1949* September 1, 1956	September 1, 1954 1976	Fort Alexander Indian Reserve, Manitoba	Roman Catholic; Interdenomination (post 1962 consolidation)
Manitoba	<b>Fort Alexander #3 - (AC)</b>	Northside (Anglican)	April 7, 1952	September 1, 1962	Fort Alexander Indian Reserve, Manitoba	Anglican Church
Manitoba	<b>Fort Alexander #4 - (RC)</b>		June 1955	September 1, 1961	Fort Alexander Indian Reserve, Manitoba; on the north side of the Winnipeg River	Roman Catholic
Manitoba	<b>Garden Hill</b>		1946*	1990*	Garden Hill, Island Lake, Manitoba	United Church
Manitoba	<b>God's Narrows (RC)</b>	God's Lake (RC)	1935*	1964-1965*	God's Lake Narrows, MB	Roman Catholic
Manitoba	<b>God's Narrows (UC)</b>	God's Lake (UC)	1912* Seotember 1930 September 1947	September 1929 September 1946 1964-1965*	God's Lake Narrows, MB	United Church
Manitoba	<b>God's River</b>	Amos Okemow Memorial	1959*	September 1994*	God's River, Manitoba	Roman Catholic
Manitoba	<b>Grand Rapids</b>		1885 1961*	1961* 1967*	Grand Rapids, Manitoba	Anglican Church
Manitoba	<b>Granville Lake</b>		1972*	August 1, 1980*	Granville Lake, Manitoba	
Manitoba	<b>Griswold Sioux</b>	Oak River Griswolk	1955*	1973*	Griswold, Manitoba	Roman Catholic
Manitoba	<b>Guy Hill</b>		September 1, 1968	June 30, 1979		

Manitoba	<b>Hollowwater River (AC)</b>	Hollow Water River Hollow Water Protestant	1900*	1968*	Wanipigow, Manitoba	Anglican Church
Manitoba	<b>Hollowwater River (RC)</b>	Hollow Water River	1954*	1968*	Wanipigow, Manitoba	Roman Catholic
Manitoba	<b>Island Lake (RC)</b>	St. Theresa Point St. Therese School	1928	1989/1990*	Massinacap, Island Lake; St. Theresa Point, Island Lake, Manitoba	Roman Catholic
Manitoba	<b>Island Lake (UC)</b>	Island Lake Protestant Indian Day School Island Lake United Church Indian Day School	1903	1960*	Island Lake Reserve No. 2, Island Lake, Manitoba	Methodist; United Church
Manitoba	<b>Jack River (AC)</b>	Jack River Church of England Day School; Jack River Combined White and Indian Church of England Day School;	1901*	1964*	Jack River Reserve (1911-1928); Norway House Reserve (1922-1933)	Anglican Church
Manitoba	<b>Jack River (RC)</b>		September 1, 1925	1965*	Jack River Reserve (1925-1928); Norway House Reserve (1929-1939)	Roman Catholic
Manitoba	<b>Jackhead</b>		1922	1981	Dallas, Manitoba; Jackhead Harbour, Manitoba	Anglican Church
Manitoba	<b>Koostatak Centre</b>	Koostatak	1953*	1963/1964*	Koostatak, Manitoba	United Church
Manitoba	<b>Lac Brochet</b>	Lac du Brochet, Northlands	1974	1994	Lac Brochet Indian Reserve	
Manitoba	<b>Lake Manitoba No. 1</b>	Dog Creek	1895*	March 1980*	Lake Manitoba Indian Reserve No. 46;	Roman Catholic
Manitoba	<b>Lake Manitoba No. 2</b>		1952*	September 1, 1963	Fisher River Agency; Vogar, Manitoba	Roman Catholic
Manitoba	<b>Lake St. Martin</b>		1889*	September 1, 1989	Lake St. Martin reserve; Gypsumville, Manitoba	Anglican Church

Manitoba	<b>Little Black River</b>	Black River	1942*	1981*	Little Black River, Manitoba	Anglican Church United Church
Manitoba	<b>Little Grand Rapids (RC)</b>		1927*	September 1970	Little Grand Rapids, Manitoba	Roman Catholic
Manitoba	<b>Little Grand Rapids (UC)</b>		1906*	1981*	Little Grand Rapids, Manitoba	United Church
Manitoba	<b>Little Saskatchewan</b>		1910*	1990*	Little Saskatchewan Reserve; Gypsumville, Manitoba	Anglican Church
Manitoba	<b>Lizard Point</b>		1956	1968*	Angusville; Rossburn, Manitoba	Roman Catholic (1956) United Church (1959-1963)
Manitoba	<b>Long Plain # 2</b>		1952*	1980*	Long Plain Indian Reserve; Edwin, Manitoba	United Church
Manitoba	<b>Long Plain #1</b>		September 1949*	September 1963*	Edwin, Manitoba	United Church
Manitoba	<b>Long Plain #3</b>	Keeseekoowenin	Between October 1956 and February 1959	Between February 1959 and September 1962		United Church
Manitoba	<b>Murdoch</b>	Murdock Centre; Fisher River	1948*	1963*	Dallas, Manitoba	Anglican Church; United Church
Manitoba	<b>Nelson House (RC)</b>	St. Patrick's RC School Catholic Point School	1925*	March 16, 1970	Nelson House, Manitoba	Roman Catholic
Manitoba	<b>Nelson House (UC)</b>	Roland Lauze	1901*	June 1981*	Nelson House, Manitoba	Methodist United Church
Manitoba	<b>Nickaway</b>		1957	September 1968*	Norway House, Manitoba	Roman Catholic
Manitoba	<b>Oak River Sioux</b>	Sioux Valley School	1912*	1979	Griswold, Manitoba	Anglican Church
Manitoba	<b>Oak River South</b>		1959*	1964*	Oak River Reserve, Portage La Prairie Indian Agency, MB	Anglican Church
Manitoba	<b>Oxford House 1</b>		September 1, 1907	September 1993*	Oxford House, Manitoba	United Church
Manitoba	<b>Oxford House 2</b>		1947*	1962*	Oxford House, Manitoba	United Church
Manitoba	<b>Oxford House 3</b>		1951*	1967*	Oxford House, Manitoba	Roman Catholic

Manitoba	<b>Pauingassi</b>		1965*	1981*	Little Grand Rapids, Manitoba; Pauingassi Settlement, Manitoba	Mennonite
Manitoba	<b>Peguis (AC) #1</b>	Peguis South-West No. 1	After 1948	1967*	Peguis Reserve, Manitoba; Hodgson, Manitoba	Anglican Church
Manitoba	<b>Peguis (AC) #2</b>	Peguis South	1912	1967*	Peguis Reserve, Manitoba	Anglican Church
Manitoba	<b>Peguis (AC) #3</b>	Peguis Centre	1921	1967*	Peguis Reserve, Manitoba; Hodgson, Manitoba	Anglican Church
Manitoba	<b>Peguis (AC) #4</b>	Peguis North	1948	1967*	Peguis Reserve, Manitoba; Dallas, Manitoba	Anglican Church
Manitoba	<b>Peguis (RC)</b>	Peguis R.C.	1960*	1967*	Hodgson, Manitoba	Roman Catholic
Manitoba	<b>Peguis Central</b>	Chief Peguis Junior High	1955	1977*	Hodgson, Manitoba	Anglican Church
Manitoba	<b>Pine Bluff</b>		September 1, 1922	1956*	Pine Bluff Reserve, Manitoba; Pas Agency	Roman Catholic
Manitoba	<b>Pine Creek</b>		1969*	1984	Camperville, Manitoba	Roman Catholic*
Manitoba	<b>Pipestone</b>	Oak Lake Oak Lake Sioux	1951*	1968*	Oak Lake Sioux, Manitoba	Roman Catholic
Manitoba	<b>Playgreen</b>		1955*	September 1968*	Norway House, Manitoba	United Church
Manitoba	<b>Poplar River</b>		1884	1981	Poplar River, Manitoba; Negginan, Manitoba	Methodist United Church
Manitoba	<b>Poplar River (RC)</b>		1960*	1969*	Poplar River, Manitoba	Roman Catholic
Manitoba	<b>Pukatawagan</b>		1951*	September 1, 1987	Pukatawagan, Manitoba	Roman Catholic
Manitoba	<b>Red Earth</b>		Before 1920	1951*	Red Earth Reserve, Manitoba	Anglican Church
Manitoba	<b>Red Sucker Lake</b>		1952*	1987*	Red Sucker Lake, Manitoba	United Church
Manitoba	<b>Rolling River Day School</b>		1952*	1961*	Rolling River Reserve	Presbyterian
Manitoba	<b>Roseau Rapids</b>		1911*	September 30,	Roseau Rapids Reserve,	Non-

				1920	Manitoba	Denominational
Manitoba	<b>Roseau River (RC)</b>	Lower Roseau River Roseau River Kindergarten & Nursery School	1950	1980*	Roseau River Reserve; Letellier, Manitoba	Roman Catholic
Manitoba	<b>Roseau River (UC)</b>		1959*	1967*	Roseau River Reserve; Dominion City, Manitoba	United Church
Manitoba	<b>Rossville</b>	Norway House	1883	October 1956*	Norway House, Manitoba	United Church
Manitoba	<b>Saggitawack (RC)</b>	Saggitowack	1948*	September 1, 1969	Cross Lake, Manitoba	Roman Catholic Non- Denominational
Manitoba	<b>Saggitawack (UC)</b>	Sagittawuk Saggitawak Sagittawuk	1948*	October 11, 1967	Cross Lake, Manitoba	United Church
Manitoba	<b>Sagkeeng Consolidated</b>	South Shore School	1969	1976	Fort Alexander, Manitoba	United Church
Manitoba	<b>Sandy Bay</b>		1971*	September 1, 1974	Marius, Manitoba	
Manitoba	<b>Shamattawa</b>	Shamattawa-Nelson River Nelson River- Shamattawa Nelson House- Shamattawa Shamattawa-Nelson House	1949*	September 1, 1988	Shamattawa	Anglican Church
Manitoba	<b>Shoal Lake</b>		1892*	1939*	Pas Reserve, Manitoba Shoal Lake Reserve, Manitoba	Anglican Church
Manitoba	<b>Shoal River (AC)</b>	Pelican Rapids, Pelican Rapids Community School, Pelican Rapids Day School (Niel Ketmatch Sc)	1904*	1959*	Shoal River Indian Reserve, Manitoba	Anglican Church
Manitoba	<b>Shoal River (RC)</b>		1954*	1959*	Shoal River, Pelican Rapids, Manitoba	Roman Catholic

Manitoba	<b>Split Lake</b>		1909	January 1990*	Split River, Manitoba	Anglican Church
Manitoba	<b>St. Peter's (North)</b>	North St. Peter's Day School	1895*	April 30, 1925	St. Peter's Reserve (North), Manitoba Clandeboye Agency	Anglican Church
Manitoba	<b>Stedman's School</b>		July 1, 1977	1981*	Fairford Reserve, Manitoba	
Manitoba	<b>Swan Lake</b>	Indian Springs	1903*	1981*	Swan Lake Reserve, Manitoba	United Church
Manitoba	<b>Tadoule Lake School</b>		September 1974	September 1995*	Tadoule Lake, Manitoba	
Manitoba	<b>Tatowich</b>	Cross Lake R.C. Day #597	September 1962	1969*	Cross Lake Indian Reserve, Manitoba, Norway House Indian Agency	Roman Catholic Inter-denominational
Manitoba	<b>The Pas</b>	Carrot River (Classroom)	1880	1965*	The Pas, Manitoba	Anglican Church
Manitoba	<b>Tower Island</b>		1953*	1968*	Norway House Agency, Manitoba	Anglican Church
Manitoba	<b>Valley River</b>		1948	1972	Valley River Reserve, Manitoba	Roman Catholic
Manitoba	<b>Wassagamach</b>	Wasagamach Waasagamach George Knott	1968*	September 1992	St. Theresa Point, Manitoba	
Manitoba	<b>Wassagamach (RC)</b>	Wasagamach RC Seasonal	1951	1968*	St. Theresa Point, Manitoba	Roman Catholic
Manitoba	<b>Wassagamach (UC)</b>	Wasagamach UC Seasonal	1952	1959*	St. Theresa Point, Manitoba	United Church
Manitoba	<b>Waterhen River</b>	Water Hen Waterhand	1882 1924	1922 June 1971	Waterhen (River) Reserve, Manitoba	Roman Catholic
Manitoba	<b>Waywayseeecappo</b>		1952	1961	Lizard Point Indian Reserve 62, Manitoba	United Church Presbyterian
Manitoba	<b>York Factory</b>		1904 1949	1942 1951	York Factory Reserve, Manitoba	Anglican Church
Manitoba	<b>York Landing</b>		September 7, 1971	September 1994	York Landing, MB	
Manitoba	<b>Crane River</b>		1950*	1960*	Crane River Reserve, Manitoba	Roman Catholic Church

Manitoba	<b>Moose Lake</b>		Before 1920	1939*		Anglican Church
New Brunswick	<b>Big Cove</b>		September 1897	September 1985	Elsipogtog First Nation	Roman Catholic
New Brunswick	<b>Burnt Church</b>		1880	September 1982	Burnt Church Reserve	Roman Catholic
New Brunswick	<b>Edmundston</b>		January 1911	June 1923	Edmundston Reserve in Madawaska County	Roman Catholic
New Brunswick	<b>Eel Ground</b>		1882	November 1993	Eel Ground Reserve	Roman Catholic
New Brunswick	<b>Eel River</b>		January 1913	June 1957	Eel River Bar Reserve in Restigouche County	Roman Catholic
New Brunswick	<b>Indian Island</b>		Fall 1930	June 1940	Indian Island Micmac Reserve	Roman Catholic
New Brunswick	<b>Kingsclear</b>	Kings Clear	1883	September 1975	Kingsclear	Roman Catholic
New Brunswick	<b>Oromocto</b>		September 7, 1909	1967*	Oromocto First Nation	Roman Catholic
New Brunswick	<b>Red Bank</b>	Metepenagiag	September 1, 1914	September 1992	On Red Bank Reserve	Roman Catholic
New Brunswick	<b>St. Mary's</b>	DevonNorth Devon	1883June 1957	January 1945May 1986	On St. Mary's Reserve	Roman Catholic
New Brunswick	<b>Tobique</b>	Mah-Sos	February 1881 September 1976	September 1975 September 1984	On Tobique Indian Reserve No. 20	Roman Catholic
New Brunswick	<b>Woodstock</b>	Woodstock Primary and Senior Department Indian School	September 1, 1909	January 1965	On Woodstock Indian Reserve	Roman Catholic
Northwest Territories	<b>Aklavik</b>	Aklavic	January 1950	April 1, 1969	Aklavik	Anglican Church Roman Catholic
Northwest Territories	<b>Arctic Red River</b>		January 1951*	April 1, 1969*	Arctic Red River	Roman Catholic
Northwest Territories	<b>Fort Franklin</b>		July 1950*	April 1, 1969*	Fort Franklin	Roman Catholic
Northwest Territories	<b>Fort Good Hope</b>		July 1950	April 1, 1969*	At the Fort Good Hope Settlement	Roman Catholic

Northwest Territories	<b>Fort Liard</b>	Ft. Liard School	September 1955*	April 1, 1969*	Fort Liard	
Northwest Territories	<b>Fort McPherson</b>	Fort McPherson Federal Day School Anglican Mission School St. Matthew's Day School Peter Warren Dease School	September 3, 1946	April 1, 1969*	Fort McPherson	Anglican Church
Northwest Territories	<b>Fort Norman</b>		1947*	April 1, 1969*	Fort Norman Settlement	Roman Catholic
Northwest Territories	<b>Fort Providence</b>		September 1960*	April 1, 1969*	Fort Providence on the north side of the Mackenzie River	Roman Catholic
Northwest Territories	<b>Fort Rae</b>	Rae	April 15, 1948	April 1, 1969*	Fort Norman Agency, situated on Great Slave Lake	Roman Catholic
Northwest Territories	<b>Fort Simpson</b>	Fort David's Mission Riverview Territorial Day School Thomas Simpson	September 1948*	April 1, 1969*	Fort Simpson, NWT	Protestant Roman Catholic
Northwest Territories	<b>Fort Simpson (RC)</b>	St. Margaret's Ste. Margaret's	1919/1920*	January 1956	Fort Simpson, NWT	Roman Catholic
Northwest Territories	<b>Fort Smith</b>	Joseph Burr Tyrell School	September 1948*	April 1, 1969*	Fort Smith	Roman Catholic
Northwest Territories	<b>Fort Wrigley</b>		Summer 1956	September 1, 1969*	Fort Wrigley, close to the airport	Roman Catholic
Northwest Territories	<b>Hay River High School</b>	Hay River Secondary School	September 1967*	April 1, 1969*	Hay River, NWT	Non-Denominational
Northwest Territories	<b>Hay River School</b>	Princess Alexandra School	February 28, 1949	April 1, 1969*	Hay River, NWT	Non-Denominational
Northwest Territories	<b>Holman Island</b>	Holman	1965*	April 1, 1969*	Holman Island, NWT	Non-Denominational

Northwest Territories	<b>Inuvik</b>	Aklavik - East 3 Samuel Hearne Sir Alexander Mackenzie	October 1956*	April 1, 1969*	Inuvik, NWT	Anglican Roman Catholic
Northwest Territories	<b>Jean Marie River</b>	Marie River	October 1953*	April 1, 1969*	At the mouth of the Rabbitskin River in the District of Mackenzie, NWT	Roman Catholic
Northwest Territories	<b>Lac la Martre Day School</b>	Whati	October 1954*	April 1, 1969*	Lac la Martre, NWT	Non- Denominational
Northwest Territories	<b>Nahanni Butte</b>	Paul Tesou	September 1955*	April 1, 1969*	Nahanni Butte	Roman Catholic
Northwest Territories	<b>Norman Wells</b>		1960	1971*	Norman Wells, NWT	
Northwest Territories	<b>Pine Point</b>		1965*	April 1, 1969*	Pine Point, NWT	No information available
Northwest Territories	<b>Reindeer Station</b>	Reindeer Depot	October 8, 1956	1968*	Reindeer Station, NWT	Non- Denominational
Northwest Territories	<b>Rocher River Day School</b>		September 1, 1949*	1959*	North of Fort Resolution	Roman Catholic
Northwest Territories	<b>Snowdrift</b>	Lutsel K'e Dene School, Lutselke South Slave Residents, Lutsel'ke Federal Day School	July 19, 1957	June 1969*	On the southeast shore of Great Slave Lake in the District of Mackenzie close to the treeline and less than a mile from the mouth of the Snowdrift River to the northeast	Roman Catholic
Northwest Territories	<b>Trout Rock Seasonal School</b>	Ptarmigan Point Seasonal School	May 1958*	1959*	Trout Lake, NWT; Ptarmigan Point	
Northwest Territories	<b>Tuktoyatuk</b>		September 8, 1947	April 1, 1969*	Tuktoyaktuk, NWT	
Nova Scotia	<b>Afton</b>		December 1913	September 1969	Afton Reserve, Paq'tnkek First Nation	Roman Catholic
Nova Scotia	<b>Bear River</b>		February 1, 1872	July 1, 1942	Bear River Reserve	Roman Catholic
Nova Scotia	<b>Eksasoni</b>		November 1, 1875	1982/1983*	Ekasoni, Nova Scotia	Roman Catholic
Nova Scotia	<b>Indian Cove</b>	Pictou Landing	1880	1985*		Roman Catholic

Nova Scotia	<b>Malagawatch</b>		January 10, 1910	April 30, 1942	Malagawatch, Nova Scotia, on a Micmac reserve	Roman Catholic
Nova Scotia	<b>Middle River</b>	Nyanza Wagamatcook Wagmatcookewey	November 1883	1987/1988*	Middle River/Wagmatcook Reserve	Roman Catholic
Nova Scotia	<b>Millbrook</b>		1898	1956	Millbrook Indian Reserve, near Truro	Roman Catholic
Nova Scotia	<b>New Germany</b>		September 1887	December 1926	New Germany Indian Reserve, Lunenburg County, Nova Scotia	Roman Catholic
Nova Scotia	<b>Salmon River</b>	St. Anne's Barra Head	1886	September 1964- September 1965*	Salmon River, Chapel Island	Roman Catholic
Nova Scotia	<b>Shubenacadie</b>	Micmac Indian Day School Indian Brook Day School	Fall 1894 1943	February 1930 February 14, 1997	Indian Brook Reserve	Roman Catholic
Nova Scotia	<b>Sydney</b>	Sydney Bay	Fall 1903	December 1964	The school was located on Kings Road Reserve until 1927, then on the Membertou Reserve at a different location in the city	Roman Catholic
Nova Scotia	<b>Whycocomagh</b>	Wyacocomagh	July 1874	September 1993	On Whycocomagh Reserve	Roman Catholic
Nunavut	<b>Arctic Bay</b>		1958*	April 1, 1970*	Arctic Bay, Baffin Island	Protestant
Nunavut	<b>Baker Lake</b>		January 1957*	April 1, 1970*	Baker Lake, NWT	
Nunavut	<b>Belcher Island</b>	The South Camp School	September 20, 1960	April 1, 1970*	At the south end of Belcher Islands	
Nunavut	<b>Cambridge Bay</b>		1956/1957*	April 1, 1970*	Cambridge Bay on Victoria Island	Anglican Church
Nunavut	<b>Cape Dorset</b>		September 26, 1950	April 1, 1970*	Cape Dorset	Non-Denominational
Nunavut	<b>Chesterfield Inlet</b>	Sir Joseph Bernier Joseph Bernier Victor Sammurtok	September/October, 1951*	April 1, 1970*	Chesterfield Inlet	Roman Catholic

		School				
Nunavut	<b>Clyde River</b>		October 30, 1960	April 1, 1970*		
Nunavut	<b>Coppermine</b>	Kugluktuk School	1951*	April 1, 1969*	Coppermine Settlement	Non-Denominational
Nunavut	<b>Eskimo Point</b>		September 21, 1959	April 1, 1970*	Eskimo Point	
Nunavut	<b>Frobisher Bay</b>	Apex Hill Air Base School Sir Martin Frobisher	November 1, 1955	April 1, 1970*	Frobisher Bay	
Nunavut	<b>Gjoa Haven</b>		September 1962*	April 1, 1969*	Gjoa Haven	
Nunavut	<b>Grise Fiord</b>		1962*	April 1, 1970*	South shore of Ellesmere Island	
Nunavut	<b>Hall Beach</b>	Hall Lake Government School	March 1967	April 1, 1970*	A community on the northeastern coast of the Melville Peninsula; Baffin Region	Anglican Church
Nunavut	<b>Igloolik</b>		October 3, 1960	April 1, 1970*	Igloolik	
Nunavut	<b>Lake Harbour</b>		1949*	April 1, 1970*	Baffin Island, Nunavut	Anglican Church
Nunavut	<b>Pangnirtung</b>		1956*	April 1, 1970*	Baffin Island, Nunavut Franklin District, NWT (Nunavut)	Protestant
Nunavut	<b>Pelly Bay</b>		1962*	April 1, 1970*	In the south bay of the Gulf of Boothia, approximately 125 miles south east of Spence Bay	Roman Catholic
Nunavut	<b>Pond Inlet</b>		January 1, 1961*	April 1, 1970*	Pond Inlet, NWT	Non-Denominational
Nunavut	<b>Rankin Inlet</b>	Rankin Inlet Federal Hostel Day School	1957*	April 1, 1970*	Rankin Inlet, NWT	
Nunavut	<b>Repulse Bay</b>		November 1968	April 1, 1970*	South western edge of Melville Peninsula, north of Southampton Island.	
Nunavut	<b>Resolute Bay</b>		1958*	April 1, 1970*	Resolute Bay	

Nunavut	<b>Southampton Island</b>	Coral Bay	September 1950*	April 1, 1970*	Coral Harbor, Southampton Island	
Nunavut	<b>Spence Bay</b>		1958*	April 1, 1970*	Spence Bay, NWT	Protestant
Nunavut	<b>Whale Cove</b>		January 1961*	April 1, 1970*	Keewatin Region, Rankin Inlet area on the western coast of Hudson Bay about 200 miles northeast of Churchill	Roman Catholic Protestant
Nunavut	<b>Broughton Isle</b>	Qikirtarjuaq	September 1959*	April 1, 1970*	Broughton Island	
Ontario	<b>Abitibi</b>		1908	1933*	Abitibi, Ontario	Roman Catholic
Ontario	<b>Albany River</b>	Albany Mission; Albany; Albany North River; Kashechewan	1894*	1970*	Kashechewan, ON	Anglican Church
Ontario	<b>Alnwick</b>	Alderville Mississaugas of Alnwick	1869*	1968*	Alnwick, Ontario (1872) Alderville, Ontario (1880)	Methodist United Church
Ontario	<b>Angling Lake</b>	Wapekeka	September 1968*	September 1988*	Wapekeka Lake, ON; Angling Lake, ON	
Ontario	<b>Anishinabie</b>		1979*	1983*	Sioux Lookout District, Deer Lake, Ontario	
Ontario	<b>Aroland</b>		September 1949*	1974*	Nakina, Ontario*	Roman Catholic
Ontario	<b>Attawapiskat</b>	Attawapiskat J.R. Nakogee Elementary	1947*	1990*	Attawapiskat, Ontario	Roman Catholic
Ontario	<b>Back Settlement</b>	Chippewa of the Thames Muncey	1869*	June 1970*	Muncey, Ontario	Non-denominational (1894-1925); United Church
Ontario	<b>Batchawana</b>	Batchewana	October 2, 1912	1957*	Batchewana Bay Reserve, Ontario	Roman Catholic Church
Ontario	<b>Bear Creek</b>		1868-1875*	December 31, 1959	Caradoc Reserve, Ontario	Non-denominational; United Church

Ontario	<b>Bearskin</b>	Bearskin Lake	June 1948* 1959/1960*	1955* September 1988*	Bearskin Lake community, Michikan Lake, ON	Anglican Church
Ontario	<b>Big Beaver House</b>	Big Beaver House Big Beaver House	May 1955*	March 1, 1965	Sioux Lookout Agency, ON	Anglican Church
Ontario	<b>Birch Island</b>		October 26, 1891 September 1925*	June 30, 1907 March 1973*	Whitefish River Reserve, Ontario	Anglican Roman Catholic
Ontario	<b>Buzwah</b>	Buzwah's Village School Paswa	1883* September 1913	June 1904 September 1965	Manitoulin Island, Ontario	Roman Catholic
Ontario	<b>Cape Croker (RC)</b>	Cape Croker No. 1	1873-1880	1993*	Cape Croker Reserve, Ontario	Roman Catholic
Ontario	<b>Cape Croker (UC)</b>		September 1964	1983*	Cape Croker Reserve, Ontario	Non- Denominational United Church
Ontario	<b>Cat Lake</b>	Cat Lake Seasonal	July 19, 1935 1950*	1940* September, 1989*	Cat Lake ON	Anglican Church
Ontario	<b>Christian Island (RC)</b>		January 1, 1934	1971/72*	Christian Island Reserve, Cedar Point ON	Roman Catholic
Ontario	<b>Christian Island (UC)</b>		Before 1920	Between March 1983 and January 1994	Christian Island Reserve, Cedar Point ON	United Church
Ontario	<b>Collins</b>		May 1, 1946	1978/1979*	Collins, ON	Roman Catholic
Ontario	<b>Constance Lake</b>	Constance Lake Church of England	October 1, 1944	September, 1993*	Constance Lake Reserve, Chapleau Indian Agency, ON	Anglican Church
Ontario	<b>Cornwall Island</b>	Cornwall Island West	1876-1877	October 1980*	St. Regis Reserve	Roman Catholic
Ontario	<b>Cornwall Island East</b>		February 10, 1936	September 1958*	St. Regis Reserve	Roman Catholic
Ontario	<b>Deer Lake</b>		Before 1920	September 1, 1990*	Deer Lake, ON	Methodist United Church
Ontario	<b>Deseronte</b>		Between October 1956 and February 1959	Between February 1959 and September 1962		
Ontario	<b>Dokis</b>	Dokis Bay	Before 1920	1971/72*		Roman Catholic
Ontario	<b>Eagle Lake</b>		1960*	September 1963*	Eagle River, ON	Roman Catholic

Ontario	<b>Emily C General</b>		September 1990*	1990*	Six Nations Indian Reserve No. 40, Ohsweken, ON	None
Ontario	<b>English River</b>		May 1, 1920	Fall 1940*		Anglican Church
Ontario	<b>Ferland School</b>	Ferland Day School No. 370	August-September, 1953	February, 1959	Port Arthur Agency (Nakina)	Roman Catholic
Ontario	<b>Fort Frances</b>	Fort Francis St. Margaret's	September 1, 1968			Roman Catholic
Ontario	<b>Fort Hope</b>		1913*	Before January 1994*	Fort Hope, Eabamet Lake, ON	Anglican Church
Ontario	<b>Fort Severn</b>		June 1 1934 1939* 1954*	1936* 1940* Before January 1994*	Fort Severn, Ontario	Anglican Church
Ontario	<b>French Bay</b>		1868-1869 January 8, 1934	September 1933 June 1967*	Saugeen Reserve, ON	United Church
Ontario	<b>Garden River (AC)</b>	Garden River, Protestant	Before 1920	Between September 1965 and September 1968	Garden River Indian Reserve	Anglican Church
Ontario	<b>Garden River (RC)</b>	Garden River (R.C.) No. 390	1873-1874	November 1969	Garden River Indian Reserve	Roman Catholic
Ontario	<b>Garden Village</b>		January 3, 1906	June 5, 1943	Nipissing Indian Reserve	Roman Catholic
Ontario	<b>Georgina Island</b>	Georgina Island Indian Mission	At least July 1915	Jun-78	R.R. 2, Sutton West, Ontario	Methodist Church (1915-1925) United Church (1927-1974)
Ontario	<b>Gibson</b>	Sahanatien School Watha Band School	1882-1883	September 1958	Gibson Reserve, nine miles from Bala, ON	Methodist
Ontario	<b>Golden Lake</b>		1887	June 30, 1968	Golden Lake Reserve, County of Renfrew, On	Roman Catholic
Ontario	<b>Goulais Bay</b>	Goulais Bay Mission Indian Day School	February 20, 1905	September 1969*	Goulais Bay Indian Reserve, Batchewaung Bay	Roman Catholic
Ontario	<b>Graham S.S. No. 1</b>		1920*	Between 1920 and 1925	Naughton Reserve, Thessalon Agency	Roman Catholic

Ontario	<b>Grand Bay/McIntyre Bay</b>	Sand Point	October 1, 1920	1942*	Off Lake Nipigon, near Macdiarmid, ON	Roman Catholic
Ontario	<b>Grassy Narrows</b>		September 1965	November 1992*	English River Indian Reserve No. 21, Grassy Narrows, ON	Roman Catholic
Ontario	<b>Gull Bay</b>		August 1, 1915 October 1928*	June 30, 1919 1992-1995*	Gull River Indian Reserve No. 55, on Gull Bay	Roman Catholic
Ontario	<b>Henry Coaster Memorial</b>	Ogoki Indian Day School Marten Falls Reserve Day School Ogoki Post Day	September 8, 1970	Before January 1994*	Ogoki Post, via Nakina, ON	None
Ontario	<b>Henvey Inlet</b>	Miller School (Henvey's Inlet)	1880* September 1921	1925	On an inlet of Georgian Bay, ON.	Non-Denominational
Ontario	<b>Hornepayne</b>	Hornepayne Seasonal School	1951*	1962*	Nakina Agency, ON	Anglican Church
Ontario	<b>I L Thomas</b>	Six Nations B*	September 1990*	1990*	Six Nations Indian Reserve No. 40, Ohsweken, ON	None
Ontario	<b>Islington</b>	Whitedog Indian Day School	13-Aug-55	Before 1991*	Whitedog, Islington Reserve No. 29	Anglican Church
Ontario	<b>J.C. Hill Sr. Elementary School</b>	J.C. Hill Junior School	1969*	1990*	Six Nations Indian Reserve No. 40, Ohsweken, ON	None
Ontario	<b>Jamieson</b>		1976*	1990*	Ohsweken Indian Reserve, No. 40, Six Nations, Ohsweken, ON	None
Ontario	<b>Kaboni</b>		September 4, 1916	Between 1983 and 1988	Kaboni, Wikwemikong Unceded Indian Reserve No.26	Roman Catholic
Ontario	<b>Kamisquabika</b>		1979*	September 1, 1988	Kingfisher Lake, ON	None
Ontario	<b>Kasabanika Lake</b>		May 1961*	1979-1980*	Kassabonika Lake, ON	Anglican Church
Ontario	<b>Kashachewan School</b>	St. Andrews Kashachewan Elementary	1970*	1994*	Kashechewan, ON (Albany River)	None

Ontario	<b>Kettle Point</b>	Kettle Point Kindergarten	1870	September 1, 1990	Kettle Point Reserve near Forest, ON	Anglican Church
Ontario	<b>Kingfisher Lake</b>		September 1966*	1977*	Kingfisher Lake, ON	Non-Denominational
Ontario	<b>Lac La Croix</b>	Lac La Croix 407, Lac La Croix Elementary	Summer 1951*	1975*	Neguaguon Lake, Lac La Croix Reserve 25D, ON	Roman Catholic
Ontario	<b>Lac Seul</b>	Frenchman's Head Treaty Point Canoe River School	April 1922 Summer 1949 Summer 1960 1970*	1923* Fall 1956 Fall 1961 1994*	Lac Seul, ON	Anglican Church Methodist
Ontario	<b>Lake Helen</b>		September 30, 1881	1966-1967	Lake Helen, four miles from the Red Rock or Lake Helen reserve, two miles from the town of Nipigon, ON	Roman Catholic
Ontario	<b>Lakeview</b>		1948*	Between April 1980 and March 1981	M'Chigeeng Indian Reserve, Manitoulin Island, Ontario	Roman Catholic
Ontario	<b>Lansdowne House (AC)</b>	Lansdowne House, Neskantaga Elementary, Lansdowne House C. of E.	June 1948	September 1994*	Lansdowne House, ON	Anglican Church
Ontario	<b>Lansdowne House (RC)</b>	Lansdowne House Seasonal, Lansdowne House RC	September 1955*	September 1971*	Lansdowne House, ON	Roman Catholic
Ontario	<b>Long Lac</b>	Longlac Long Lac (Marten Falls),	November 1, 1945	1971/1972*	Long Lack Reserve, Long Lac, ON	Roman Catholic
Ontario	<b>Lower French River</b>	Rivière des Français au bas	September 1922*	1971-1972*	Henvey Inlet Reserve, R.R. 2, Rutter, ON	Roman Catholic
Ontario	<b>MacDiarmid Indian Day School</b>	Macdiarmid	1951*	September 1, 1961	MacDiarmid, ON	Roman Catholic

Ontario	<b>Magnetawan</b>	Maganatawan Maganetawan Magnetewan Byng Inlet School	September 1924*	July 1945		Non-denominational
Ontario	<b>Manitou Rapids</b>		Before 1920	September 1955*	Manitou Rapids Indian Reserve in Rainy River, Ontario	Anglican Church
Ontario	<b>Martin Falls</b>	Long Lac Long Lake	Summer 1921 March 9, 1936	Fall 1921 September 1941*	Ogoki, 180 kilometers from Nakina	
Ontario	<b>Mattagami</b>	Metagami	September 1939* 1978*	May 1966* 1982/1983*	Mattagami Indian Reserve No. 71	Anglican Church
Ontario	<b>Mattice</b>		Between 1920 and 1925	Between 1925 and 1933		
Ontario	<b>Michipicoten Harbour</b>		1882 1930*	1915* 1948*	Michipicoten River, ON	Roman Catholic
Ontario	<b>Missabay</b>	Missabay Community School	September 1979*	September 1992*	New Osnaburgh, Ontario	Non-denominational
Ontario	<b>Mission Bay</b>	Squaw Bay School Fort William	Before 1920	Between September 1965 and September 1968	Fort William Reserve, Ontario,	Roman Catholic
Ontario	<b>Mississauga River</b>	Mississauga Mississauga R.C.	1879	Before 1991*	Mississauga River Indian Reserve, north shore of Georgian Bay	Roman Catholic
Ontario	<b>Mistikwospwogan</b>		Between September 1965 and September 1968	Between March 1983 and January 1994		
Ontario	<b>Mobert</b>	Pic Mobert	November 18, 1929	March 1981*	Mobert Indian Reserve n. 82, Mobert, Ontario, 22 miles from White River	Roman Catholic
Ontario	<b>Mohawk Day</b>	Mohawk School Block	September 1, 1968	June 30, 1970		
Ontario	<b>Moose Deer Point</b>		October 1, 1916	1950*	Moose Deer Point Reserve	Non-denominational
Ontario	<b>Moose Factory No. 2</b>		1955*	January 1, 1957		

Ontario	<b>Moose Fort</b>		1905* 1947*	1940* 1968*	Moose Fort Reserve, James Bay, ON	Anglican Church
Ontario	<b>Moose River</b>	French Post	February 1911	1927*	"Moose River Post / French Post near Moose Fort"	Anglican Church
Ontario	<b>Moraviantown</b>	Moravians of the Thames, Moraviantown Kindergarten	Before 1867	February 1991*	Moravian Indian Reserve No. 47, Township of Orford, County of Elgin, on the River Thames, RR#3 Thamesville, ON	Moravian Church (1867-1903) Methodist Church (1915-1925) United Church (1927-1970)
Ontario	<b>Mount Elgin</b>	Mt. Elgin Continuational, Mount Elgin Senior, Mount Elgin Intermediate, Mount Elgin (UC) No. 009, Mt. Elgin Indian Day School No. 468C	1946-1947*	September 1, 1992	Near the River Thames on the Caradoc Reserve, near the town of Muncey, in the Township of Caradoc, Middlesex County, ON	United Church
Ontario	<b>Mountain Village</b>		Before 1920 September 1949*	June 30, 1922 1968*	Mountain Village, Fort William Reserve, Ontario	Roman Catholic
Ontario	<b>Mountbatten</b>	Mount Batten	October 1948*	May 19, 1966*	Nemegos, ON Tophet, ON	Anglican Church
Ontario	<b>Mud Lake</b>	Chemong Mud Lake (Curve Lake) Chemong (Curve Lake)	1921*	June 1978	Curve Lake, ON	Anglican Church (1896) Roman Catholic (1915-1973)
Ontario	<b>Muncey</b>	Lower Muncey	1877-1881	1942*	Caradoc Reserve, Middlesex County, RR#1 Mount Brydges, ON	Anglican Church
Ontario	<b>Murray Hill</b>		May 26, 1948	November 1, 1965	Maiangowi Settlement, Manitoulin Island Indian Reserve,	Roman Catholic
Ontario	<b>Muskrat Dam</b>		March 1968*	March 1974*	Muskrat Dam, ON via Bearskin Lake	

Ontario	<b>Native Sena</b>		1987*	September 1993*	Weagamow Lake Reserve 87, ON	
Ontario	<b>Native Sena Elementary</b>		December 28, 1979	May 4, 1983	Round Lake Settlement, Weagamow Lake, ON	
Ontario	<b>Naughton School</b>		September 5, 1950	September 1964	Naughton, White Fish Reservation, ON	Methodist (1891- 1905) Roman Catholic (1919-1959)
Ontario	<b>New Credit</b>	Mississagua New Credit School	Before 1920	Between 1991 and January 1994	New Credit Reserve, ON	Anglican Church
Ontario	<b>New Credit Central</b>	New Credit #5	1957/58*	1960*	New Credit Reserve, ON	Anglican Church
Ontario	<b>Northwest Angle School</b>	N.W. Angle	1970	September 1980	Northwest Angle Indian Reserve No. 34C, ON	
Ontario	<b>Northwest Bay</b>	Northwest Bay – 499	September 1951	June 30 or September 1, 1969*	Naicatchewenin, or Rainy Lake Reserve No. 17A, Northwest Bay near Devlin, ON	Roman Catholic
Ontario	<b>Ogoki</b>	Ogoki Seasonal School Ogoki RC	Summer 1954*	March 1, 1965	Ogoki, 180 kilometers from Nakina, ON	Roman Catholic
Ontario	<b>Ohsweken Central</b>	Six Nations Central	November 1953	1969*	Six Nations Indian Reserve No. 40, Ohsweken, ON	Anglican Church
Ontario	<b>Ojibbewas</b>		1956*	Between March 1983 and January 1994		Presbyterian
Ontario	<b>Oliver M Smith</b>	Six Nations A*	September 1990*	1990*	Six Nations Indian Reserve No. 40, Ohsweken, ON	None
Ontario	<b>Oneida No. 1</b>		1864/1865	September 1968*	Oneida Reserve in the Township of Delaware, Middlesex County	United Church
Ontario	<b>Oneida No. 2</b>	Oneida No. 2 [Primary; Junior; Senior]	1873-1879	September 1968*	Oneida Reserve in the Township of Delaware, Middlesex County	Anglican (1881- 1885) United Church (1955-1964)

Ontario	<b>Oneida No. 3</b>	S.S. #3 Oneida	1882*	September 1968*	Oneida Reserve in the Township of Delaware, Middlesex County	Anglican (1881-1925) United Church (1944-1965)
Ontario	<b>Oneida No. 4</b>		April 1951	September 1968*	Oneida Reserve in the Township of Delaware, Middlesex County	United Church (1955-1964)
Ontario	<b>Osnaburgh</b>	Osnaburgh Seasonal Missabay Community School	1947* 1956*	1949* 1991-1992*	Osnaburgh House, ON	Anglican Church
Ontario	<b>Pays Plat</b>	Pays Plat Seasonal	1950*	1951* 1954*	Pays Plat, north shore of Lake Superior, ON	Roman Catholic
Ontario	<b>Pelican Lake</b>		September 1, 1968	June 30, 1973		
Ontario	<b>Pic</b>	Pic River Heron Bay School	June 1, 1927 September 1928	August 6, 1927 April 1997*	Pic River Reserve No. 50, Heron Bay, ON	Roman Catholic
Ontario	<b>Pickle Lake School</b>	Pickle Lake, Pickle Lake Seasonal	May 26, 1948*	1962*	Pickle Lake District, ON	Anglican Church
Ontario	<b>Pikangikum</b>	Pekangekum	1926*	September 1988	Pikangikum, ON	United Church
Ontario	<b>Ponask</b>		1979*	September 1988	56km north of Sachigo Lake, ON	
Ontario	<b>Pontiac School</b>	Wikwemikong #26 School	1958*	1988*	Wikwemikong Unceded Indian Reserve No. 26, Wikwemikong, ON	Roman Catholic
Ontario	<b>Poplar Hill (Mennonite)</b>		1953*	September 1, 1962*	Poplar Hill, ON	Mennonite
Ontario	<b>Poplar Hill (RC)</b>	St. Theresa R.C.	Summer 1956*	1982-1983*	Poplar Hill, ON	Roman Catholic
Ontario	<b>Port Elgin</b>	No. 3 Port Elgin Little Port Elgin Port Elgin U.C.	1874-1880*	Between September 1963 and September 1964	Port Elgin, ON	United Church
Ontario	<b>Quinte Mohawk</b>	Mohawks Bay of Quinte Tyendinaga Tyendinaga #38	October 1960*	1990*	Quinte Mohawk Reserve, Deseronto, ON	Anglican Church

Ontario	<b>Rabbit Island</b>	Rabbit Island Indian Day School No. 455	September 19, 1938	September 1963*	Manitoulin Island Reserve, 3.5 miles from Wikwemikong, in the Manitoulin Island Agency	Roman Catholic
Ontario	<b>Rama</b>		Before 1920	Between September 1964 and September 1965		United Church
Ontario	<b>Rat Portage</b>		September 1954	January 1966*	On the Rat Portage Reserve Near Kenora, ON	Presbyterian
Ontario	<b>River Settlement</b>	Caradoc	1873/1874	Between October 1956 and February 1959*	Chippewa of the Thames Reserve along on the Thames River, Caradoc Township, Middlesex County	United Church
Ontario	<b>Round Lake</b>		September 13, 1952	Between 1991 and January 1994	Weagamo Lake, ON	Anglican Church
Ontario	<b>Ryerson</b>	Perry Island	Before 1920	Between 1979/1980 and 1982/1983	On Parry Island, two miles from Parry Sound	United Church
Ontario	<b>Sabaskong</b>	Sab, Assabaska, Sabasbong Indian Day School, Sabaskong Bay, Sabaskony School #367, New Sabaskong 367, 001 Sabaskong, 002 Sabaskong, Sabaskong School 479, Sabaskong R.C	September 1956	April 1977*	Sabaskong Reserve No. 35D near Nestor Falls, ON	Roman Catholic
Ontario	<b>Sachigo</b>	Sachigo Lake, Martin Mckay Memorial, Ponask	June 5, 1956*	September 1989*	Sachigo, ON	Anglican Church
Ontario	<b>Sagamok</b>	Sagamook, Sagamok R.C., River Road School	June 1884* January 1, 1936	September 1930* September 1972*	On the north shore of the north channel of Lake Huron along the south	Roman Catholic

					bank of the Spanish River	
Ontario	<b>Saint Anne's</b>	Fort Albany (RC)	1977*	1986*	Fort Albany First Nation	
Ontario	<b>Samson Beardy</b>	Samson Beardy Memorial	December 28, 1978*	September 1988	Muskrat Dam, ON	
Ontario	<b>Sandy Lake (RC)</b>	Sandy Lake RC Seasonal, Sandy Lake #459, Sandy Lake 494-013 RC	September 1956 September 1959	April 1958 Between January 1971 and March 1974*	Sandy Lake Reserve, 200 miles north of Sioux Lookout, ON	Roman Catholic
Ontario	<b>Sandy Lake (UC)</b>	Sandy Lake Seasonal, Sandy Lake AC, Sandy Lake #364, Sandy Lake #004, Sandy Lake #482	September 1956	Between March 1974 and February 1983*	Sandy Lake Reserve, 200 miles north of Sioux Lookout, ON	United Church
Ontario	<b>Saugeen Village</b>	Saugeen	1868-1869*	March 1974*	Chippewa Hill, Saugeen Reserve, ON	Methodist United Church
Ontario	<b>Scotch Settlement</b>	Scotch Settlement School 426, Scotch Settlement Federal	1883*	June 1968	Saugeen Reserve, Southampton, ON	United Church
Ontario	<b>Seine River</b>	Seine River Day - 456	December 1904 January 13, 1937 1946* September 1953	June 1911 September 1942 September 1952 1972-1973*	Wild Potato Lake, Seine River Reserve 23A, ON	Roman Catholic
Ontario	<b>Serpent River</b>	Kenabutch, Serpent River Federal, Serpent River (Cutler)	June 1875	June 1973	East of the mouth of the Serpent River	Roman Catholic
Ontario	<b>Shawanaga</b>	Shewanaga	1880	1961*	Shawanaga, ON	Anglican Church
Ontario	<b>Shawanosowe</b>		1969*	1982*	Sucker Creek Indian Reserve No. 23, Birch Island, ON	Roman Catholic
Ontario	<b>Sheguiandah (AC)</b>	Sheshegwaning Shequiandah	April 1, 1867*	Between March 1983 and January 1994	Sheguiandah Reserve, ON	Anglican Church
Ontario	<b>Sheguiandah (RC)</b>	Sheguiandah Reserve, Ontario	September 1929	June 30, 1937	Near Sheguiandah Reserve, Ontario	Roman Catholic

Ontario	<b>Sheshegwaning (AC)</b>	Sheshegwaning C.E., Sheshegwaning Anglican, Sheshegwaning No. 431	October 1, 1913	1932-1939*	Sheshegwaning on Manitoulin Island, across Bayfield Sound from Barrie Island	Anglican Church
Ontario	<b>Sheshegwaning (RC)</b>	Sheshegwaning Federal (107)	1880-1884*	1990*	Sheshegwaning on Manitoulin Island, across Bayfield Sound from Barrie Island	Roman Catholic
Ontario	<b>Sidney Bay</b>	Sydney Bay	1874-1880*	1964*	Cape Croker Reserve, Warton, Ont	Roman Catholic (1956-1957) United Church (1959-1963)
Ontario	<b>Sinclair Island Federal School</b>					
Ontario	<b>Sineonokway Native</b>		September 1979*	1991-1992*	Kasabonika Lake, ON	
Ontario	<b>Six Nations No. 1</b>	S. S. #1 Tuscarora	1892-1893	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 10</b>	Onondaga School S. S. #10 Tuscarora	1870*	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 11</b>	No. 11 School, Oneida (Cayuga) S. S. #11 Tuscarora	1871-1880 *	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 12</b>	S. S. #12 Tuscarora	1873*	September 1990	Six Nations Reserve #40, Ohsweken	Wesleyan Missionary Society (1874 to 1879) Anglican Church of Canada (1880; 1956 to 1977)
Ontario	<b>Six Nations No. 2</b>	No. 2 School (Ohsweken)	1869	1962*	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 3</b>	No. 3 School (Smith's) S.S. #3 Tuscarora	1869	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church

Ontario	<b>Six Nations No. 4</b>	S.S. #4 Tuscarora	1869-1879 *	1980-1981*	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 5</b>	No. 5 School (Delaware) S. S. #5 Tuscarora	1869	July 1987*	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 6</b>	No. 6 School S. S. #6 Tuscarora	1869	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 7</b>	No. 7 Strong's School S. S. #7 Tuscarora	1869	July 1987*	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 8</b>	S. S. #8 Tuscarora	Between 1869 and 1893	September 1990	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>Six Nations No. 9</b>	S.S. #9 Tuscarora	1869	1984/1985*	Six Nations Reserve #40, Ohsweken	Anglican Church
Ontario	<b>South Bay</b>		1877 1955*	1925 September 1963*	Manitoulin Island	Roman Catholic
Ontario	<b>Spanish River</b>		1889	September 1961	Spanish River, ON	Roman Catholic (1890-1892)  Anglican Church (1894-1961)
Ontario	<b>St. Clair</b>	St. Clair Reserve (Sarnia)	1881*	Between 1920 and 1925		
Ontario	<b>St. Mary's</b>	St. Mary's School Block	September 1, 1968	June 30, 1972		
Ontario	<b>Standing Stone</b>	Oneida of the Thames Oneida School	September 1968*	September 1993*	Oneida Indian Reserve No. 41	
Ontario	<b>Stony Point</b>	Stoney Point	1880	June 1942	Located on the Stony Point Reserve	
Ontario	<b>Sucker Creek</b>		1886	1962*	Sucker Creek Reserve	Anglican Church
Ontario	<b>Timagami</b>	Bear Island Temagami Temogami	1904*	1951*	On Bear Island	Roman Catholic
Ontario	<b>Trout Lake</b>	Big Trout Lake IDS	1930*	1988*	Big Trout Lake, ON	Anglican Church

Ontario	<b>Tyendinaga (Central)</b>	Tyendinaga, No. 3	1882	September 1967*	On the Tyendinaga Reserve	Anglican Church
Ontario	<b>Tyendinaga (Eastern)</b>	Tyendinaga, No. 1	1882	September 1967*	On the Tyendinaga Reserve	Anglican Church
Ontario	<b>Tyendinaga (Mission)</b>	Tyendinaga, No. 4	1883	October 1956*	On the Tyendinaga Reserve	Roman Catholic
Ontario	<b>Tyendinaga (Western)</b>	Tyendinaga, No. 2	1882	September 1967*	On the Tyendinaga Reserve	Anglican Church
Ontario	<b>Victoria Linklater</b>	North Spirit Lake	1963*	September 1990*	North Spirit Lake, ON	
Ontario	<b>Wabigoon</b>	Wabigon Wabegoon	1956*	1969*	Wabigoon Reserve	Presbyterian
Ontario	<b>Wabunung</b>	Wabung (Manitoulin) School	1972*	1983*	Unceded Indian Reserve No. 26, Wikwemikong, ON	Roman Catholic
Ontario	<b>Walpole Island No. 1</b>		Before 1920	September 1, 1990	Walpole Island Reserve	Anglican Church
Ontario	<b>Walpole Island No. 2</b>		1880	1968*	Walpole Island Reserve	Anglican Church
Ontario	<b>Walpole Island No. 3</b>		1959*	1968*	Walpole Island Reserve	
Ontario	<b>Webequie School</b>	Webequi Webeque	September 1964	1994*	Webequie, ON, Nakina Agency	Anglican Church
Ontario	<b>Weeneesk</b>	Weenusk	Summer 1948* Summer 1957 Summer 1969*	1955 April 7, 1966 March 1974*	Weenisk, ON	Roman Catholic
Ontario	<b>West Bay</b>		1875	1966*	West Bay Reserve	Roman Catholic
Ontario	<b>Whitefish Bay</b>	St. Andrew's	August 1925*	September 1978*	Whitefish Bay Reserve	Roman Catholic
Ontario	<b>Whitefish Lake</b>	White Fish	September 1880	1955*	At Lake Penache on the Whitefish Lake Reserve	Roman Catholic
Ontario	<b>Whitefish River</b>		1884	1992*		
Ontario	<b>Whitesand</b>		July 1930September 1940*	January 12, 1938September 1941*	Whitesand Reserve, ON, near Lake Nipigon	
Ontario	<b>Wikwemikong</b>	Wikwemiking Indian Day School	Before 1920	1988*	Wikwemikong, ON	Roman Catholic
Ontario	<b>Wikwemikong Senior</b>		1967*	1971*	Wikwemikong, ON	Roman Catholic
Ontario	<b>Winisk</b>		September 1979*	June 14, 1985*	Winisk Indian Reserve No. 90, Winisk, ON	

Ontario	<b>Wunnumin Lake</b>		October 1960*	September 1988*	Wunnumin Lake Indian Reserve	Anglican Church
Prince Edward Island	<b>Lennox Island</b>	John J. Sark Memorial	1869	1987/1988*	Lennox Island Reserve	Roman Catholic
Prince Edward Island	<b>Rocky Point</b>		October 1915	June 1922	East side of Charlottetown Harbour, at a former Micmac campsite acquired by the Government of Prince Edward Island for the use of the Rocky Point Band, Prince Edward Island	
Quebec	<b>Barrière Lake</b>	Barrière	June 1924* 1950*	1930* September 1964	Lac Barrière band, Quebec	Roman Catholic
Quebec	<b>Bersimis</b>	Betsiamites Ecole Indienne de Betsiamites	1901	1981/1982*		Roman Catholic
Quebec	<b>Brennan's Lake</b>	Brennan Lake	October 17, 1921	September 1941	Brennan's Lake, Timiskaming, Quebec	Roman Catholic
Quebec	<b>Caughnawaga</b>		Between 1920 and 1925	Between September 1968 and January 1971		Presbyterian United Church
Quebec	<b>Caughnawaga - Boys</b>		1868	1923/1924	Caughnawaga village, now Kahnawa:ke, on the St. Lawrence River, opposite Lachine, Quebec	Roman Catholic
Quebec	<b>Caughnawaga - Bush</b>	Sacred Heart Bush School Caughnawaga Bush No. 303	1907	1945*	Three miles from the village of Caughnawaga, now Kahnawa:ke, in the farming section towards the southeast end of the reserve	Roman Catholic
Quebec	<b>Caughnawaga - Girls</b>		1891	1923/1924	Caughnawaga village, now Kahnawa:ke, on the St. Lawrence River,	Roman Catholic

					opposite Lachine, Quebec	
Quebec	<b>Caughnawaga - Mission</b>		Between 1933 and 1939	Between 1939 and October 1956		Methodist
Quebec	<b>Caughnawaga - R.C.</b>	Kateri School (girls section) Eastern School (boys section)	1924	August 1969	The school site was described as occupying lots 85, 92, 93, and 94 in the village of Caughnawaga, Quebec (now Kahnawa:ke)	Roman Catholic
Quebec	<b>Caughnawaga - St. Isidore</b>	Caughnawaga St. Isidore Road	1911	1953*	Located at the farming community in the western portion of the Caughnawaga (now Kahnawa:ke)	Roman Catholic
Quebec	<b>Caughnawaga Continuation</b>			1923/1924	Caughnawaga village, now Kahnawa:ke, on the St. Lawrence River, opposite Lachine, Quebec	Roman Catholic
Quebec	<b>Chenail</b>	Akwesasne Chenail	1881	1991*	The Chenail Reserve, St. Regis Agency, on the mainland opposite Yellow Island in the province of Quebec.	Roman Catholic
Quebec	<b>Chetlain</b>		December 3, 1913	July 1948*	St. Regis Reserve, Huntington County, Quebec, "across the river from Cornwall, Ont."	Non-Denominational
Quebec	<b>Congo Bridge</b>	Congway	1905	1985-1986*	Maniwaki Reserve, Quebec	Roman Catholic Non-denominational
Quebec	<b>Eastmain</b>	East Main Wabannutao Eyou School	July 1939	1977*	Eastmain, Quebec	Anglican Church

Quebec	<b>Fort George (AC)</b>		1895	July 1939*	Conducted at the Anglican Church, Fort George Indian Reserve, East Main Coast, James Bay Agency, Abitibi District, Quebec	Episcopal Church Anglican Church
Quebec	<b>Grand Lake Victoria</b>	Grand Lac Victoria	June 1923	September 1926	Grand Lake Victoria, Outside Treaty, Quebec	
Quebec	<b>Hunter's Point</b>		June 1907 October 1920	1910 1940*	Hunter's Point, Kippewa Lake, Quebec; included in the Temiskaming Agency and relating to the Kipawa and Grassy Lake Band.	Roman Catholic
Quebec	<b>Karonhianonha</b>	Karonianona 311/004 Karonhianonha 373/004 Karonhianonha 102 Karonhianonha1026	September 1966	September 1988	Caughnawaga Reserve No. 14	Roman Catholic
Quebec	<b>Kateri</b>	Kateri 373/002 Kateri R. C. 103	September 1969	September 1988	Village of Caughnawaga, Caughnawaga Reserve No. 14 (now Kahnawa:ke)	Roman Catholic
Quebec	<b>Kawennanoron</b>	Kawennanoron 373/001 Kawennanoron 104	1969	September 1988	Caughnawaga Reserve No. 14 (now Kahnawa:ke)	Anglican Church
Quebec	<b>Knob Lake</b>	Knob Lake A.C./C.E. Knob Lake Protestant Schefferville Protestant	September 1958	July 16, 1966	Located "not far" from the Knob Lake R.C. Indian Day School, which was located within the boundaries of the Reserve, a few miles from the town of Schefferville	Anglican Church

Quebec	<b>Knob Lake R.C. School</b>	Schefferville (Knob Lake) Indian School No. 315 N.-D. [Notre-Dame] des Indiens Schefferville R.C.	January 1957	July 1970	Located within the boundaries of the Reserve, a few miles from the town of Schefferville. The school was included in the Bersimis-Seven Islands Education District, Quebec	Roman Catholic
Quebec	<b>Lake Simon</b>	Lac Simon	1922	September 21, 1929	Lake Simon Reserve, Lake [Lac] Simon, Quebec. Included in the Temiskaming Agency	Roman Catholic
Quebec	<b>Long Point</b>	Winneway's River Long [Longue] Point Summer School	1911 November 1950	October 31, 1937 October 1, 1958	Long Point, Temiskaming Agency, Quebec	Roman Catholic
Quebec	<b>Lorette</b>	Hurons of Lorette	1865	1982-1983*	Lorette Reserve No. 7, Wendake, Quebec	Roman Catholic
Quebec	<b>Maliotenam</b>	Maliotenam (Sept-Îles) R.C. School Maliatenam	April 1, 1969*	1981*	Located on Maliotenam Reserve, Sept-Îles (Seven Islands) District, Quebec	Roman Catholic
Quebec	<b>Manawon</b>	Manouan Manouane Wapoc	June 7, 1928	1989-1990*	St-Michel-des-Saints, Quebec Manawan Mission, Casey, Quebec Manowan Indian Reserve	Roman Catholic
Quebec	<b>Maniwaki</b>	River Desert Day School Ottawa Road Day School	1868	June 1955	Kitigan Zibi Anishinabeg First Nation	Roman Catholic Non-Denominational
Quebec	<b>Maria</b>		1864	November 1963*	Gesgapegiag, Quebec	Roman Catholic
Quebec	<b>Minigan</b>	Mingan Teuaikan	1949* February 18, 1965	February 1959* 1989-1990*	Mingan, Quebec	

Quebec	<b>Mistassini</b>	Mistissini St. John's Seasonal School Mistassini Lake Indian School Mistassine	April 1911 1937	1931 1977	Mistassini, Quebec Baie du Poste, Quebec Mistassini Reserve, Quebec	Anglican Church
Quebec	<b>Moisie River</b>	Moisie	1923 November 1948	1928 August 1952*	Located on the Moisie River Reserve, Seven Islands Agency, Quebec	
Quebec	<b>Natashquan</b>	Ecole Indienne de Natashquan	1948* September 1957	June 1956 1989/1990*	Natashquan Reserve, Quebec	Roman Catholic
Quebec	<b>Nemaska</b>	Nemiska	September 13, 1952	September 1, 1965	Nemaska, Quebec	Anglican Church
Quebec	<b>Obedjiwan</b>	Obejiwan	June 1, 1924	1990/1991	Obedjiwan, Quebec	Roman Catholic
Quebec	<b>Oka Country</b>	Oka #323 Kanestake	1880	June 1994*	Lake of Two Mountains, Oka, Quebec Kanesatake, Oka Indian Reserve No. 16, Quebec	Methodist United Church
Quebec	<b>Oka Village</b>	Lake of Two Mountains (Wesleyan)	1874	1957-1958*	Lake of Two Mountains, Oka, Quebec	Methodist United Church
Quebec	<b>Paint Hills</b>	Old Factory River Old Factory C.E. Factory River Wemindji	Summer 1949	1977*	At Paint Hills. The location of the school was sometimes identified as Nouveau-Comptoir	Anglican Church
Quebec	<b>Pierreville (AC)</b>	St. Frances (C.E) Pierreville Protestant Abenaki Indian School	Pre-Confederation	September 1941	Located on a lot between the road to the ferry and the road to Pierreville on the Pierreville Indian Reserve, also known as the St. Francis Reserve, Quebec	Anglican Church

Quebec	<b>Pierreville (RC)</b>	St. Francis (St. Frances) St. Joseph's St. Frances Academy Abenakis Odanak	Pre-Confederation	September 1, 1958	At St. François du Lac, Yamaska County, Quebec or as Abenakis, Pierreville or Odanak Indian Village, Quebec	Roman Catholic
Quebec	<b>Pointe Bleue</b>	Amishk Montagnais of Lake St. John (Lac St. Jean) Point Blue	1874-1875 June 1968	September 1960 Between 1982- 1983*	Lake St. John, Quebec Point(e) Bleue (Blue), Quebec Ouiatchouan Indian Reserve, Quebec	Roman Catholic
Quebec	<b>Rapid Lake</b>		September 1971*	September 1993*	Rapid Lake, Quebec	None
Quebec	<b>Restigouche</b>	Mission Point Micmacs of Restigouche	Before 1864	June 1961	Mission Point, Quebec Mission of Restigouche, Quebec Restigouche, Quebec Ste. Anne de Restigouche, Quebec Cross-Point, Quebec	Roman Catholic
Quebec	<b>Romaine Indian Day School</b>	(La) Romaine	1949	September 1, 1968	Located on the La Romaine Reserve in the St. Augustine Agency, Quebec. Located on the north shore of the St. Lawrence in Saguenay County, was also known as Gethsemane.	Roman Catholic
Quebec	<b>Rupert's House</b>	Ruperts House Waskaganish	1896/1897	September 1977	Rupert's (Ruperts or Rupert) House, Quebec  Fort Rupert, Quebec	Anglican Church
Quebec	<b>Sanmaur</b>	Sanmaur Kindergarten	October 1967*	June 1973	Located in Sanmaur, Quebec, on the west bank of the Saint- Maurice River across from Weymontachie.	Roman Catholic

Quebec	<b>Sept-Îles</b>	Seven Islands	1931 October 13, 1947	January 1932 September 1, 1959	Located on the Sept-Îles Reserve, also known as Seven Islands, located about 12 miles from the city of Sept-Îles [BAX-000910]. The reserve was later re-named Maliotenam.	Roman Catholic
Quebec	<b>St. Augustin</b>		Between October 1956 and February 1959	Between February 1959 and September 1962		Roman Catholic
Quebec	<b>St. Regis Island</b>		1885	1953*	St. Regis Island School was located on the St. Regis Reserve on the St. Lawrence River, QC	Roman Catholic
Quebec	<b>St. Regis Village</b>	Village School St. Regis Village R.C.	1836	1990*		Roman Catholic
Quebec	<b>Timiskaming</b>	Temiskaming R.C. Témiscamingue Notre-Dame-du-Nord Kiwetin Kikinamading	1874/1875	July 1991*	Notre-Dame-du-Nord, Quebec North Timiskaming, Quebec Temiskaming Indian Reserve No. 19, Quebec	Roman Catholic
Quebec	<b>Waswanapi</b>	St. Barnabas Mission School	1914	September 1963*	Waswanipi Reserve, Abitibi Agency, Province of Quebec  The Bishop of Moosonee described the "Waswonopy" Mission as located about 100 miles northeast of the Bell River Crossing of the Grand Trunk Transcontinental.	Anglican Church

Quebec	<b>Weymontaching</b>	Weymontaching (Weymontachie) Weymontachie	June 1925	September 1, 1985	Weymontaching, Quebec Weymontachie Indian Reserve No. 23, Quebec Wemotaci, Quebec Sanmaur, Quebec	Roman Catholic
Quebec	<b>Wolf Lake</b>		July 1911	June 30, 1932	Kippiwa Indians, Wolf Lake, Quebec	Roman Catholic
Saskatchewan	<b>Ahtakakoops</b>	Ahtakakoop Sandy Lake	1878	September 1, 1990	Ahtakakoops Reserve	Anglican Church
Saskatchewan	<b>Assiniboine</b>		1886	1989	Located on Assiniboine Reserve, situated about a quarter of a mile from the agency buildings	Roman Catholic United Church Presbyterian Church
Saskatchewan	<b>Beardy's</b>	Beardy Beardy and Okemasis	January 7, 1957	September 1984		Roman Catholic
Saskatchewan	<b>Big Island Lake</b>	Chief Napayo Memorial Chief Napayo Big Head School Big Island	September 1, 1934	June 30, 1986*	Pierceland or Northern Pine, Saskatchewan	Roman Catholic
Saskatchewan	<b>Big River (AC)</b>	Kinoomootaya	1901	1976*	Big River Indian Reserve No. 118	Anglican Church
Saskatchewan	<b>Big River (RC)</b>		1940*	1976*	Big River Indian Reserve No. 118	Roman Catholic
Saskatchewan	<b>Black Lake</b>		June 13, 1955 September 1, 1972	September 1, 1968 June 30, 1986	Black Lake School was located on Chicken Indian Reserve No. 224, in Black Lake, Saskatchewan	Roman Catholic
Saskatchewan	<b>Canoe Lake</b>		1958*	1989*	Canoe Lake Indian Reserve No. 165 in Canoe Narrows, Saskatchewan. The school was on the whole of Lot 2.	Roman Catholic

Saskatchewan	<b>Chakoo</b>		September 1, 1960	September 1, 1974*	Located on the Pelican Narrows Reserve, a hand drawn map showed Pelican Narrows located near the Saskatchewan-Manitoba border.	Roman Catholic
Saskatchewan	<b>Chitek Lake</b>	Pelican Lake Chamakese	1938	September 1, 1990*	Pelican Lake Band, Chitek Lake Reserve No. 191	Anglican Church
Saskatchewan	<b>Cote</b>	Cote Old School Cote Improved Pelly Cote #1 Crow Stand Crowstand	1882*	1989	Cote Reserve, Saskatchewan	Presbyterian United Church
Saskatchewan	<b>Cote No 2</b>	Hillside Cote New School	September 1951	1961/1962*	Cote Reserve, Saskatchewan	United Church Roman Catholic
Saskatchewan	<b>Cote No 3</b>	Whitesand	June 1954*	June 1969	Pelly Agency, Cote Reserve, Saskatchewan	Roman Catholic
Saskatchewan	<b>Cote No 4</b>		1958*	February 13, 1961	Near Kamsack, Saskatchewan	Roman Catholic
Saskatchewan	<b>Cowessess</b>	Cowessess Kindergarten	February 1956*	September 1982*		
Saskatchewan	<b>Day Star's</b>	Day Stars Day Star	1888 1948	1945 1972	Located near Punnichy Saskatchewan on the Day Star Reserve	Anglican Church
Saskatchewan	<b>Duck Lake</b>	Duck Lake School Block	September 1, 1969	1982*		
Saskatchewan	<b>File Hills</b>		September 1949	June 1966*	Near the boundaries of the Okanese Reserve	United Church
Saskatchewan	<b>File Hills Colony (RC)</b>	Peepeekisis	April 1, 1957	September 1, 1988	Located on the Peepeekesis Indian Reserve No. 81	Roman Catholic
Saskatchewan	<b>File Hills Colony (UC)</b>		February 1950*	September 1, 1962	Located on the Peepeekesis Indian Reserve No. 81	United Church

Saskatchewan	<b>Fishing Lake</b>		March 1904	1972	Located on the Fishing Lake reserve near Wadena, Saskatchewan	Anglican Church
Saskatchewan	<b>Fond du Lac</b>		September 1949* September 1, 1972	September 1, 1968 July 1, 1985	Located in Fond du Lac, Saskatchewan and 60 miles from the Stony Rapids Indian Day School	Roman Catholic
Saskatchewan	<b>Fort à la Corne (North)</b>	James Smith (North) North Fort a la Corne	1886	October 9, 1962	Located on the north end of the James Smith Reserve	Anglican Church
Saskatchewan	<b>Fort à la Corne (South)</b>	James Smith (South) South Fort a La Corne	1904	May 1960*	Located in the south end of the James Smith Reserve	
Saskatchewan	<b>Gordon's (AC)</b>		September 1, 1968	July 1992		Anglican Church
Saskatchewan	<b>Gordon's Day School (RC)</b>	Gordon Kindergarten	1954	1980	Located on the Gordon's Reserve at Punnichy, Saskatchewan	Roman Catholic
Saskatchewan	<b>James Smith</b>	James Smith Central	September 1960	September 1977	James Smith Reserve, at the center of the reserve	Anglican Church
Saskatchewan	<b>John Smith</b>	John Smith's	1881	Septemer 1954*	John Smith's Reserve located in Puckahn, Saskatchewan or Davis Saskatchewan	
Saskatchewan	<b>Jubilee</b>		September 1, 1952	September 1, 1964	On the Kahkewistahaw Indian Reserve	United Church
Saskatchewan	<b>Kakishiway</b>	Ochapowace East	February 1961	1968*	Located 9 miles from the Ochapowace Indian Day Schoo	United Church
Saskatchewan	<b>Key (AC)</b>	Keys	1885	September 1967	Key Indian reserve, 16 miles northwest of Kamsack, SK	Anglican Church
Saskatchewan	<b>Key (RC)</b>		September 1, 1957	September, 1961	Key Indian reserve, 16 miles northwest of Kamsack, SK	Roman Catholic

Saskatchewan	<b>Kinistino</b>		1938	1981*	Located near Chagoiness, Saskatchewan on the Kinistino Reserve	Anglican Church
Saskatchewan	<b>La Plonge High</b>		September 1, 1974*	1986*	La Plonge Indian Reserve No. 192 at Beauval, Saskatchewan	
Saskatchewan	<b>Lakeside</b>		September, 1950	September, 1960*	Cowessess Indian reserve, eight miles northwest of Broadview, SK	Roman Catholic
Saskatchewan	<b>Little Pine(s)</b>	Little Pine Little Pine Kindergarten Chief Little Pine	1890 August 1978*	March 1974* March 1991	On the Little Pine Reserve	Anglican Church
Saskatchewan	<b>Little Red River</b>	Little Red River Kindergarten	February 1929 September 1969*	September 1968* April 1985	On Little Red River Indian Reserve No. 106C, in Tweedsmuir, Saskatchewan	Anglican Church
Saskatchewan	<b>Loon Lake</b>		1943*	September 1979	Located in Loon Lake, Saskatchewan on Makwa Lake Indian Reserve No. 129	Anglican Church
Saskatchewan	<b>Maple Creek</b>		August, 1957*	September 1, 1966	Maple Creek Indian reserve, 75 miles southwest of Swift Current	
Saskatchewan	<b>Marieval</b>		April 1, 1969	September 1, 1982*		
Saskatchewan	<b>Meadow Lake</b>		February 1949	June 1961	Located on the Meadow Lake Indian reserve, on the north shore.	Roman Catholic
Saskatchewan	<b>Ministikwan</b>	Little Island Lake Island Lake	1930	September 1987	Located on the Ministikwan Reserve	Anglican Church
Saskatchewan	<b>Mistawasis</b>		June 1918	Between April 1980 and March 1983	On Mistawasis Reserve	Presbyterian

Saskatchewan	<b>Montreal Lake School</b>		1892 September 1972	September 1968 September 1977	Located on Montreal Lake Indian Reserve 106	Anglican Church
Saskatchewan	<b>Moosomin</b>	Jack Fish Creek Murray Lake	September 1951	September 1988	On Moosomin Indian Reserve	
Saskatchewan	<b>Mosquito Stony</b>	Eagle Hills Stony Stoney Red Pheasant Mosquito-Grizzly Bear's Head Mosquito Grizzly Bear	1950*	September 1991	On the Stoney/ Mosquito Reserve	Roman Catholic Anglican Church
Saskatchewan	<b>Mudie Lake</b>		September 1, 1961	September 1977*	Located on the Ministikwan Reserve, in Pierceland, Saskatchewan	Roman Catholic
Saskatchewan	<b>Muscowequan</b>	Muscowequan Federal Kindergarten	September 1, 1969	September 1990*	On the Muskowekwan Reserve	Roman Catholic
Saskatchewan	<b>Muscowpetung #1</b>		September 1, 1953	Between January 1973 and June 1978	On the Muscowpetung Reserve	Roman Catholic
Saskatchewan	<b>Muscowpetung #2</b>		January 4, 1956	November 1968	On the Muscowpetung Reserve	
Saskatchewan	<b>Muskeg Lake</b>	Petequakey Muskeg Lake Kindergarten/Nursery	1955*	1982	Located on Petequakey's Reserve, Muskeg Lake. Located on Muskeg Lake Indian Reserve No. 102, in Marcelin, Saskatchewan	Roman Catholic
Saskatchewan	<b>Muskoday</b>	John Smith Indian Day School	1952*	1979*	Located in Davis, Saskatchewan. Located on John Smith Reserve. Located in southern Saskatchewan. location of the school as Muskoday Indian Reserve No. 99.	Anglican Church

Saskatchewan	<b>Nut Lake North</b>		August 1957	June 1965*	North end of the Nut Lake Reserve	Anglican Church
Saskatchewan	<b>Nut Lake South</b>	Nut Lake Kindergarten	April 1949	September 1988	Nut Lake Indian Reserve No. 90	Anglican Church
Saskatchewan	<b>Ochapowace</b>	Ochapowace Nursery / Kindergarten	September 1953*	September 1, 1987	Located on the Ochapowace Reserve No. 71, near Broadview, Saskatchewan	United Church
Saskatchewan	<b>One Arrow</b>	Batoche	1950-1952*	January 1981	Located on One Arrow Lake Indian Reserve No. 95, near Batoche, Saskatchewan.	Roman Catholic
Saskatchewan	<b>Onion Lake (AC)</b>		September 30, 1945	September 1, 1981	Onion Lake Saskatchewan	Anglican Church
Saskatchewan	<b>Onion Lake (RC)</b>		September 1969	September 1, 1981	Located on the Seekaskootch Indian Reserve No. 119	Roman Catholic
Saskatchewan	<b>Onion Lake Central</b>	Chief Taylor School	September 1973	September 1, 1981	Located on the Seekaskootch Indian Reserve No. 119	
Saskatchewan	<b>Pasqua</b>	Pasquah	September 1, 1954	June 1978	On the Pasqua Reserve, which is west of Fort Qu'Appelle, Saskatchewan	Roman Catholic
Saskatchewan	<b>Peter Pond</b>	Dillon (Federal) Buffalo River	December 1955*	September 1, 1989	Located on Peter Pond Lake Indian Reserve No. 193, in Dillion Saskatchewan in Northern Saskatchewan	Roman Catholic
Saskatchewan	<b>Piapot</b>	Payepot (after 1976)	1947*	Between November 1, 1997 and April 1998	On Piapot Indian Reserve No. 75	Presbyterian Roman Catholic
Saskatchewan	<b>Poorman</b>	Poor Man Poorman's	1888	September 1981	Located on the Poorman Reserve No. 88 near Quinton, Saskatchewan	Roman Catholic Episcopalian Church

Saskatchewan	<b>Poundmaker</b>	Chief Poundmaker Pound Maker Poundmaker's Poundmaker Nursey and Kindergarten	1879	September 1983	15 miles southwest of Paynton Saskatchewan	Roman Catholic
Saskatchewan	<b>Qu'Appelle</b>		September 1, 1968*	1984*		
Saskatchewan	<b>Red Pheasant (AC)</b>	Red Pheasant and Stony (amalgamated)	1878	September 1, 1961	On the Red Pheasant Reserve	Anglican Church
Saskatchewan	<b>Red Pheasant (RC)</b>	St. Laurent	April 1954	May 1, 1985	On the Red Pheasant Reserve	Roman Catholic
Saskatchewan	<b>Round Plains</b>	Sioux Mission Round Plain Wahpaton	August 1922	1950*	Located on the Wahspaton (Sioux) Indian Reserve	Presbyterian Church United Church
Saskatchewan	<b>Sakimay</b>		November 1956 September 1967	October 1961 August 1972*	Located on the Sakimay Indian reserve.	Roman Catholic United Church
Saskatchewan	<b>Saulteaux</b>		1957*	1982*	Saulteaux Indian Reserve No. 159, Cochin Saskatchewan Land description S2819 N ½ LSD 14 17-48-16-W3M.	Anglican Church
Saskatchewan	<b>Sawanok</b>		1962	1977*	On the Sturgeon Lake (Sawanok) Reserve.	Roman Catholic
Saskatchewan	<b>Se-se-wa-hum</b>	Big River	1976*	September 1, 1992	Big River Indian Reserve No. 118	Non- Denominational
Saskatchewan	<b>Southend</b>	Reindeer Lake	January 1961 September 1972	September 1, 1968 September 1, 1981	Located on the Southend Reserve at Reindeer Lake and shown in the South End located in north eastern Saskatchewan.	Roman Catholic
Saskatchewan	<b>Springside</b>	Springdale	September 1952	November 1964	Located on the Kahkewistahaw Indian Reserve	United Church
Saskatchewan	<b>St. Francis</b>	St. Francis Roman Catholic, Carlyle Indian Day School	December 3, 1945	September, 1967*	White Bear Indian Reserve, Carlyle, SK	Roman Catholic

Saskatchewan	<b>St. John's</b>	St. John Little Black Bear School	September 1, 1961	September 1967	Located on the Little Black Bear Indian Reserve	Roman Catholic
Saskatchewan	<b>St. Louis</b>	Patuanak English River School	September 1972	September 1989	Located on the Wapachewunak Indian Reserve No. 192D, at the north end of Ile a la Crosse at Patuanak	
Saskatchewan	<b>St. Philip's Day School</b>	Kee-see-konse Keeseekouse Keeseekoose	August 1914 September 1, 1968	December 1927 September 1, 1988	Located on the Keeseekouse Indian Reserve No. 66	Roman Catholic Non- denominational
Saskatchewan	<b>Standing Buffalo</b>	Tatanka Najin Wayawati School	September 22, 1952	November 1989- 1991*	Located on the on Standing Buffalo Reserve No. 78	Roman Catholic
Saskatchewan	<b>Stanley</b>	Stanley Mission	January 1, 1916 September 1, 1975	1956* March 1978*	Located on the Stanley Reserve in Saskatchewan. School was located on Provincial Crown Land, approximately 100 yards off of the reserve; the correspondence suggests that the school had been located on provincial land since the joint school was built in 1956	Anglican
Saskatchewan	<b>Stony Rapids</b>		1952*	September 1, 1961		Roman Catholic
Saskatchewan	<b>Sturgeon Lake Day School</b>	Sturgeon Lake Sturgeon West End Sturgeon East End Sturgeon Lake Kindergarten	1950	September 1, 1977	Located at Sturgeon Valley, Saskatchewan.	Anglican Church

Saskatchewan	<b>Sweetgrass</b>	Sweet Grass	January 5, 1950	October 1978	10 miles southwest of Paynton Saskatchewan. The new school built in 1976 was located on an undeveloped site selected by the Band.	Roman Catholic Church Missionary Society, Episcopalian Church
Saskatchewan	<b>Thunderchild (AC)</b>		May 15, 1924	July 1, 1965	On the Thunderchild Reserve	Anglican Church
Saskatchewan	<b>Thunderchild (RC)</b>		August 31, 1953	November 4, 1968*	On the Thunderchild Reserve	Roman Catholic
Saskatchewan	<b>Waterhen Lake</b>	Waterhen	September 1952	June 1985	Located in Dorintosh, Saskatchewan, on Meadow Lake Indian Reserve No. 105	
Saskatchewan	<b>Wawpaw/Wapaw</b>	Pelican Narrows	1926 1960* August 17, 1972	1953* August 31, 1968 September 1, 1981.	Located in Pelican Narrows, Saskatchewan	Anglican Church
Saskatchewan	<b>White Bear</b>	Moose Mountain White Bear's Day School White Bear Kindergarten	October 28, 1902	September 1, 1987*	Located 10 miles from Carlyle, Saskatchewan and also shown to be in southern Saskatchewan.	United Church Presbyterian
Saskatchewan	<b>Whitecap Sioux</b>	Whitecap's White Cap Moose Woods Moose Woods Sioux	1927	September 1981*	Located at Whitecap Indian Reserve No. 94.	United Church Methodist
Saskatchewan	<b>Witchekan Lake</b>		September 13, 1952	Between March 1983 and January 1994	On Witchekan Indian Reserve No. 177	Anglican Church
Yukon	<b>Burwash Landing Day School</b>		1945	1953	Located on the west shore of Kluane Lake, at mile 1094 of the Alaska Highway	Roman Catholic

Yukon	<b>Carmacks</b>		September 1, 1947	September 1955	Located at mile 103 of the Whitehorse-Mayo Road, at the crossing of the Yukon River; approximately 100 miles north of Whitehorse	Anglican Church
Yukon	<b>Champagne Landing</b>		Summer 1910	1946*	80 miles northwest of Whitehorse, Yukon Territory	Anglican Church
Yukon	<b>Little Salmon</b>		1914	1937*	On the Yukon River, at the mouth of the Little Salmon River, 35 miles east of Carmacks, Yukon Territory.	Anglican Church
Yukon	<b>Mayo</b>		September 1947	November 1956	About 210 miles by road from Whitehorse, on the Stewart River.	Anglican Church
Yukon	<b>Moosehide</b>		September 1911*	1957	At the mouth of Moosehide creek, on the east shore of the Yukon river, about three miles below the town of Dawson	Anglican Church
Yukon	<b>Old Crow Village</b>		1917	June 30, 1963	Located at the confluence of the Old Crow and Porcupine Rivers, 250 miles north of Dawson, Yukon Territory	Anglican Church
Yukon	<b>Ross River</b>		1916* June 1950	1934* 1956*	Located on the Ross River, at the intersection of Highways # 8 and # 9, 125 miles northeast of Whitehorse, Yukon Territory.	Anglican Church Roman Catholic

Yukon	<b>Teslin Lake</b>		1908 1943	1940 September 1949*	Located at Teslin, mile 804 on the Alaska Highway, on the north side of Teslin Lake, Yukon Territory	Anglican Church
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# CLAIMS FORM

## INDIAN DAY SCHOOL CLASS ACTION SETTLEMENT

This Settlement is applicable to all students who attended and suffered abuse or harm at a Federal Indian Day School or Federal Day School operated by the Government of Canada.

**Claim Due By: TBA\***

\*The Claims Deadline is defined in the Settlement Agreement as two and a half (2.5) years after the Implementation Date. A date for the Claims Deadline will be announced in the coming months.

Starting in 1920, Indigenous students were required to attend school. Some Indigenous students attended a Federal Indian Day School or Federal Day School ("**Day School**") that was funded, managed and controlled by the Federal Government of Canada ("Canada").

The **Federal Indian Day School Class Action Settlement Agreement** ("Settlement") provides compensation to any former day student who attended a Day School and who suffered abuse or harm when attending the school.

A list of the eligible Day Schools, along with relevant dates of their management and control by Canada, is available at [www.indiandayschools.com](http://www.indiandayschools.com) (Schedule K of the Settlement).

**Class Counsel and available legal advice:** legal advice with respect to eligibility and harms experienced is available **at no cost to you** from Class Counsel, Gowling WLG, by contacting [dayschools@gowlingwlg.com](mailto:dayschools@gowlingwlg.com) or 1-844-539-3815.

The Settlement provides for compensation to former Day School students who **both**:

a) **attended** Federal Indian Day School(s) and Federal Day School(s) funded, managed and controlled by Canada

**AND**

b) **suffered abuse or harm from** teaching staff, officials, students and other third parties at the school.

To be eligible for compensation, students must not have not already received a settlement from Canada for the same or related incident(s) at a Federal Indian Day School or Federal Day School as identified in this Claim Form.

Former Day School students are collectively identified as Survivor Class Members.

If you believe you are a Member of the Class, please complete this Claim Form to the best of your ability.

<b>Part 1</b>	Your name, contact details and date of birth	p. 3
<b>Part 2</b>	Day School(s) and the years you attended	p. 4
<b>Part 3</b>	Consent and Signature Page	p. 5
<b>Part 4</b>	IF claiming <b>Level 1 Verbal / Physical Harm</b>	p. 6
<b>Part 5</b>	IF claiming <b>Level 2, 3, 4, or 5 Sexual / Physical Harm</b>	p. 7-11
<b>Part 6</b>	Complete <u>only</u> if you are a legal representative of a Claimant	p. 12

**Before sending, please review the Retention Policy and Submission Process on pgs. 14 and 15**

***Please make sure to keep a copy of your Claim Form and any attached documents for your personal records.***

***Original photographs or records are not required – clear copies will be accepted.***

## Part 1: Information of Former Day School Student (Claimant)

### Claimant Name and Last Name (required)

First Name:

Middle Name: (if applicable)

Last Name:

Other name(s) (if applicable) *Examples: name while attending the school, maiden name, adopted name, or nickname*

Claimant's Date of Birth (required)

MM\_\_\_\_DD\_\_\_\_YY\_\_\_\_

If Claimant has died, Date of Death

MM\_\_\_\_DD\_\_\_\_YY\_\_\_\_

Indian Status Card number, Beneficiary number or E-Disc number (if available)

\_\_\_\_\_

Social Insurance Number (if available)

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

### Claimant Contact Details (required)

Street Name and Number

Unit Number (if applicable)

City/Town/Community

Province/Territory

Postal Code

Country

Home Telephone Number

Mobile Telephone Number

Email Address (if available)

### Claimant's current Home Community or Communities (if applicable)

*Examples: Name of First Nation, Town, Hamlet, or Settlement*



## Part 3: Claimant and Witness Signatures

**Claims Administrator and Independent Assessor:** I recognize that the Administrator and Independent Assessor **do not**:

- represent the Day Schools or Canada;
- act as an agent or legal counsel for any party, and do not offer legal advice; and,
- have any duty to identify or protect legal rights of any party, or to raise an issue not raised by any party.

**Privacy:** I understand that it may be necessary:

- for the Administrator to disclose information provided in this Claim for verification to Canada, the Independent Assessor; the Exceptions Committee (if applicable); and,
- for Canada to disclose information in its possession to: the Administrator; the Independent Assessor; the Exceptions Committee (if applicable).

**Information in Claim Form:** I confirm that all of the information provided in this Claim Form is true to the best of my knowledge. Where someone helped me complete this Claim Form, that person has read to me everything they wrote and included with this Claim Form.

**Class Counsel and legal advice:** I understand that free legal advice is available from Gowling WLG by contacting [dayschools@gowlingwlg.com](mailto:dayschools@gowlingwlg.com) or 1-844-539-3815.

**Consent:** *I understand that by signing this Claim Form and submitting it to the Claims Administrator, I am consenting to the above, and to the disclosure of my personal information to be used and disclosed in accordance with the Settlement.*

**Other/Prior Settlement (required):**

Please check YES / NO to this question: you have already received money from Canada for the same abuse/harm at a Federal Indian Day School(s) or Federal Day School(s) as described in this Claim Form. **This does not include Indian Residential Schools payments. If you are unsure, contact Class Counsel.**

Yes

No

**Signature of Claimant (required)**

**Date**

MM\_\_\_\_DD\_\_\_\_YY\_\_\_\_

The **Witness** must only see the Claimant **sign this page**. They are not required to read the Claim nor to verify the accuracy of the events.

**Signature of Witness (required)**

**Date**

MM\_\_\_\_DD\_\_\_\_YY\_\_\_\_

Witness Full Name - First, Last

Witness Address: Street Name and Number; Unit Number

City/Town/Community

Province/Territory

Postal Code

Country

Witness Telephone Number

Witness Email Address (if available)

## Part 4: Claim for Level 1 Harm– Verbal/Physical Abuse

If the abuse/harm described in Level 1 (\$10,000) represents the most serious abuse/harm(s) that you experienced while attending the Day School, please complete this section by placing a mark in the  below.

Abuse/harm may have been from teachers, officials, students, and/or other third parties.

If the abuse/harm in Level 1 does not represent the most serious harm(s)/abuse you experienced, please skip this section and complete a higher Claim Level (Levels 2 to 5) in Part 5, as appropriate.

### LEVEL 1 – Description of Verbal / Physical Abuse or Harm

#### Verbal Abuse or Harm, including:

- Mocking, or denigration (e.g. belittling or abusive language), or humiliation (e.g., shaming) by reason of Indigenous identity or culture; or
- Threats of violence or intimidating statements; or
- Sexual comments or provocations.

OR

#### Physical Abuse or Harm, including

- Unreasonable or disproportionate acts of discipline or punishment.

### LEVEL 1 – Selection

If the description of abuse/harm above represents the most serious abuse/harm that you experienced, please select Level 1 by placing a mark such in this box.

#### NEXT STEPS

If you selected Level 1 above, no further description or documentation is required.

PLEASE PROCEED TO PART 6, if applicable, on p.12 and review p.13

## Part 5: Claims Process for Levels 2, 3, 4, or 5

**STEP 1: Identify the ABUSE or HARM you suffered from *teachers, officials, students, and/or other third parties.***

Abuse / Harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
<b>Sexual Abuse/Harm</b>	<u>At least one</u> sexual incident of any one of:			<u>Repeated</u> sexual incidents of any one of:
	<ul style="list-style-type: none"> <li>▪ touching with sexual purpose;</li> <li>▪ adult(s) exposing themselves;</li> <li>▪ fondling/kissing;</li> <li>▪ nude photos taken</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ attempted penetration</li> </ul>	<ul style="list-style-type: none"> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>	<ul style="list-style-type: none"> <li>▪ masturbation;</li> <li>▪ oral intercourse;</li> <li>▪ penetration;</li> <li>▪ penetration with an object</li> </ul>
<b>OR</b>				
<b>Physical Abuse</b>	<u>At least one</u> incident of physical abuse / assault, <u>causing</u> :	<u>At least one</u> incident of physical abuse / assault, <u>causing</u> :	<u>Repeated</u> (at least two) incidents of physical abuse / assault, <u>causing</u> :	<u>During an incident</u> of any one sexual abuse / assault described above <u>at least one</u> incident of physical abuse / assault, <u>causing</u> :
<b>Harm</b>	<u>serious but temporary</u> harm: <ul style="list-style-type: none"> <li>▪ injury requiring bed rest or infirmity stay (e.g., in school medical room or hospital); or</li> <li>▪ loss of consciousness; or</li> <li>▪ broken bone(s)</li> </ul>	<u>permanent or long-term</u> harm: <ul style="list-style-type: none"> <li>▪ injury; or</li> <li>▪ impairment (e.g., physical or mental); or</li> <li>▪ disfigurement</li> </ul>		

STEP 2: SELECT YOUR CLAIM LEVEL

Level 2  
\$50,000

Level 3  
\$100,000

Level 4  
\$150,000

Level 5  
\$200,000

**STEP 3: Provide SUPPORT for the Level selected by completing sections listed below**

Support	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
Your Written Narrative of events	Complete 5A			
List of position/ person(s) who inflicted or caused the abuse/harm	<b>Only if available</b> Complete 5B		<b>Required*</b> Complete 5B	
Evidence of School attendance	<b>Required*</b> Complete 5C and attach documents			
Family / Friend narratives or other records	<b>Only if available</b> Complete 5D and attach documents		<b>Required*</b> Complete 5D and attach documents	
Medical, Dental, Nursing or Therapy Records	<b>Only if available</b> Complete 5E and attach documents		<b>Required*</b> Complete 5E and attach documents	

\* If you do not have the documents marked above as required, you may complete a Sworn Declaration; see Part 5F



## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5B – List of position / person(s) who inflicted abuse/harm

List of position / person(s) who caused abuse/harm	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required*	

**\* If you are not able to identify the position/person for Levels 4 & 5, complete Part 5F: Sworn Declaration \***

Please provide names / descriptions and/or positions of person(s) (e.g. teaching staff, officials, students and other third parties) who caused abuse/harm to you while you attended the Day School. If you need more space, please attach pages to your Claim Form and reference this section (Part 5B).

Name / Description	and / or	Position

### Part 5C – Evidence of Attendance

Attach school records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
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Required\*

**\* If you do not have the required documents for Level 2, 3, 4 and 5, complete Part 5F: Sworn Declaration \***

Please list below and attach to this Claim Form, evidence of your school attendance, including copies of any of your school records issued by the Day School(s) you attended during any of the years of your attendance. Examples may include:

- Report Cards
- Enrolment Forms
- Class Photographs
- Letter(s) from teacher or principal
- Other Records, like yearbook or school articles

List of following record(s) attached to this Claim Form:


## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5D – Other narratives and records

Attach Family/ Friend narratives or other records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required*	

**\* If you do not have the required documents for Levels 4 or 5, complete Part 5F: Sworn Declaration \***

Please list below and attach to this Claim Form, copies of other written narratives from friends/family and/or other records that support the events and incident(s) that led to the abuse(s)/harm(s) you experienced while attending the Day School(s). Examples may include:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Family narratives</li> <li>• Friend narratives</li> </ul> | <ul style="list-style-type: none"> <li>• Photographs</li> <li>• Diaries</li> <li>• Other</li> </ul> |
|--|---|

List of narratives / records attached to this Claim Form:


### Part 5E – Medical / Dental / Nursing / Therapy Records

Attach Medical, Dental, Nursing and / or Therapy Records	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Only if available		Required*	

**\* If you do not have the required documents for Levels 4 or 5, complete Part 5F: Sworn Declaration \***

Please list below and attach to this form any copies of medical, dental, nursing and/or therapy records that support your claim. This may include current or past health records that document the injury you suffered and any lasting effect to this day.

List all records attached to this Claim Form:


## Part 5: Claim for Levels 2, 3, 4, 5 only

### Part 5F – Sworn Declaration (if applicable)

You must complete the following Sworn Declaration **only if** you are missing one or more of the **required** documents (see p. 8) for **Level 2, 3, 4 or 5**.

A Sworn Declaration is a statement signed by the claimant and any one of the following Guarantors:

- Notary Public or Commissioner of Oaths including Northern Villages' Secretary Treasurer
- Elected Official or Community leader (e.g. Chief, Councilor, Inuit Community Leader)
- Other Professional (e.g. Lawyer, Doctor/Physician, Accountant (CPA), Police Officer)

Sworn Declaration by Claimant:

*I declare that the information I have provided is true to the best of my knowledge*

Claimant Full Name - First, Last

**Signature of Claimant**

**Date**

MM \_\_\_\_ DD \_\_\_\_ YY \_\_\_\_

**Above declaration must be witnessed by a Guarantor.**

The Guarantor only needs to see the Claimant sign this page. As Guarantor, you are not required to read the Form or verify the accuracy of the events described in this Form.

Guarantor Full Name - First, Last

Guarantor Title/Position

Organization

Guarantor Address: Street Name and Number; Unit Number (if applicable)

City/Town/Community

Province/Territory

Postal Code

Country

Telephone Number

Email Address (if available)

**Signature of Guarantor**

**Date**

MM \_\_\_\_ DD \_\_\_\_ YY \_\_\_\_

**Part 6: Are you applying as a Representative of a Claimant?**  
(if applicable)

A Personal Representative must be either:

a) Appointed by a Court to manage or make reasonable judgments or decisions in respect of the affairs of the person under disability

**OR**

b) The Estate Executor of a Claimant who is deceased on or after July 31, 2007

If you are applying as a Representative, on behalf of a Claimant, check this box:

Yes

**If you selected Yes, Representative to provide details below**

Representative Full Name - First, Last

Representative Address: Street Name and Number; Unit Number

City/Town/Community

Province/Territory

Postal Code

Country

Telephone Number

Email Address (if available)

**Describe your relationship to the Claimant**

**Provide Documentation**

If you are acting as a Personal Representative, you must attach documentation to verify your eligibility to act on the Claimant's behalf. Examples include:

a) an Executor, for a Claimant who is deceased, including a Death Certificate and a Will, Revenue Québec Estate Form or Court Order appointing you as the Estate Administrator for the deceased Claimant;

**OR**

b) for a Claimant who is under disability, this may include evidence that you have Power of Attorney over the Claimant's finances.

List the attached documentation you have submitted:

## Retention of Claim Form and Documents

You can choose to have your Claim Form and supportive documents attached to the form:

- A ) Securely Destroy;
- B) Returned to you;
- C) Delivered to the Legacy Fund\*.

**Please check one:**

Destroy

Return

Legacy

\* Under the Settlement Agreement, the McLean Day Schools Settlement Corporation will be established to promote Legacy Projects for commemoration, wellness/healing, and the restoration and preservation of Indigenous languages and culture. The Corporation will be managed by Directors (to be appointed by the Parties to the Agreement), with input from an Advisory Committee (representative of Indigenous survivors and their families). For more information, refer to the Agreement and visit [[www.indiandayschools.com](http://www.indiandayschools.com)].

DRAFT

## Submission Process – Claim Due By **Month Day, Year**

**Before sending, please make sure your Claim Form package includes the following:**

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | <b>Claimant name and contact information</b> in Part 1   |
| <input type="checkbox"/> | <b>Names and details for School(s) attended</b> by the Claimant in Part 2  |
| <input type="checkbox"/> | <b>Signatures of Claimant and Witness</b> in Part 3  |
| <input type="checkbox"/> | <b>Selected ONE claim Level 1-5:</b>   |
| <input type="checkbox"/> | <b>Level 1 – Verbal/Physical Abuse/Harm:</b> <ul style="list-style-type: none"><li>ticked the box on p. 6 in Part 4</li></ul>  |
|                          | <b>OR</b>  |
| <input type="checkbox"/> | <b>Levels 2, 3, 4, or 5 – Sexual/Physical Abuse/Harm:</b> <ul style="list-style-type: none"><li>ticked one box on p. 7 and</li><li>completed Part 5 including <b>written narrative</b> (p.9 ), and</li><li><b>attached documents</b> or had a guarantor sign the claim form (p 11)</li></ul> |
| <input type="checkbox"/> | <b>For Representatives</b> , completed Part 6 <u>only</u> if you are a representative submitting this claim on behalf of Claimant  |

### **PLEASE SEND YOUR CLAIM PACKAGE TO:**

Day Schools Class Action Claims Administrator, c/o Deloitte

**By Mail:** [PO BOX #], Toronto, ON, Canada, [Postal Code]

**By Fax:** [FAX #]

**By Email:** [EMAIL]

***Please make a copy of your Claim Form and any attached documents for your personal records. Original photographs or records are not required.***

For questions or to report an address change, contact [Deloitte NUMBER].





# Helping Indigenous Clients Apply for Registration under the *Indian Act*

Presentation to Provincial Advocates Conference  
Richmond, BC  
October 9, 2019

Claire Truesdale, Associate, JFK Law Corporation

# Overview

1. What is Indian registration (“status”)?
2. Why is it important?
3. Who is entitled to status under the *Indian Act*?
4. Helping people apply for status
5. Resource Materials
6. Questions

# What is Indian Registration ("status"?)

# A word about terminology...

- Indigenous
- Aboriginal
- First Nation
- Indian
- Métis
- Inuit

# What is Indian registration ("status")?

- Section 6 of the *Indian Act* defines who is an Indian for purposes of the Act
- Imposed criteria unrelated to Indigenous laws, culture or perspectives on identity, nationality and belonging
- Indian Registry created in 1951
- Separate from membership but status is a criteria for membership in most Bands
- Status Indians can be on a Band list or on General list

# Why is status important?

# Why is status important?

- Recognition of Indigenous identity (for some people)
- Band membership (for many Nations) including rights to political participation in that Nation
- Rights under the *Indian Act*:
  - to live on reserve
  - to hold individual allotments on reserve (“CPs”)
  - tax exemption
- Health and other benefits
- Programs and services



# Who is entitled to status?

# Who is entitled to status?

Entitled before 1985:

- Name on a Band list
- Male direct descendant of male Indian
- “Legitimate” child of a male Indian
- “Illegitimate” male child of male Indian
- “Illegitimate” child of female Indian (unless protested)
- Any woman who married an Indian (“Marrying in”)

# Who is entitled to status?

Not entitled before 1985:

- Any Indian woman who married non-Indian man (“Marrying out”)
- Double mother rule
- Illegitimate children of female Indians whose status was protested
- Scrip takers
- Enfranchisement
  - By choice
  - Forced - military, living overseas, university, doctor, lawyer

# Who is entitled to status?

1982

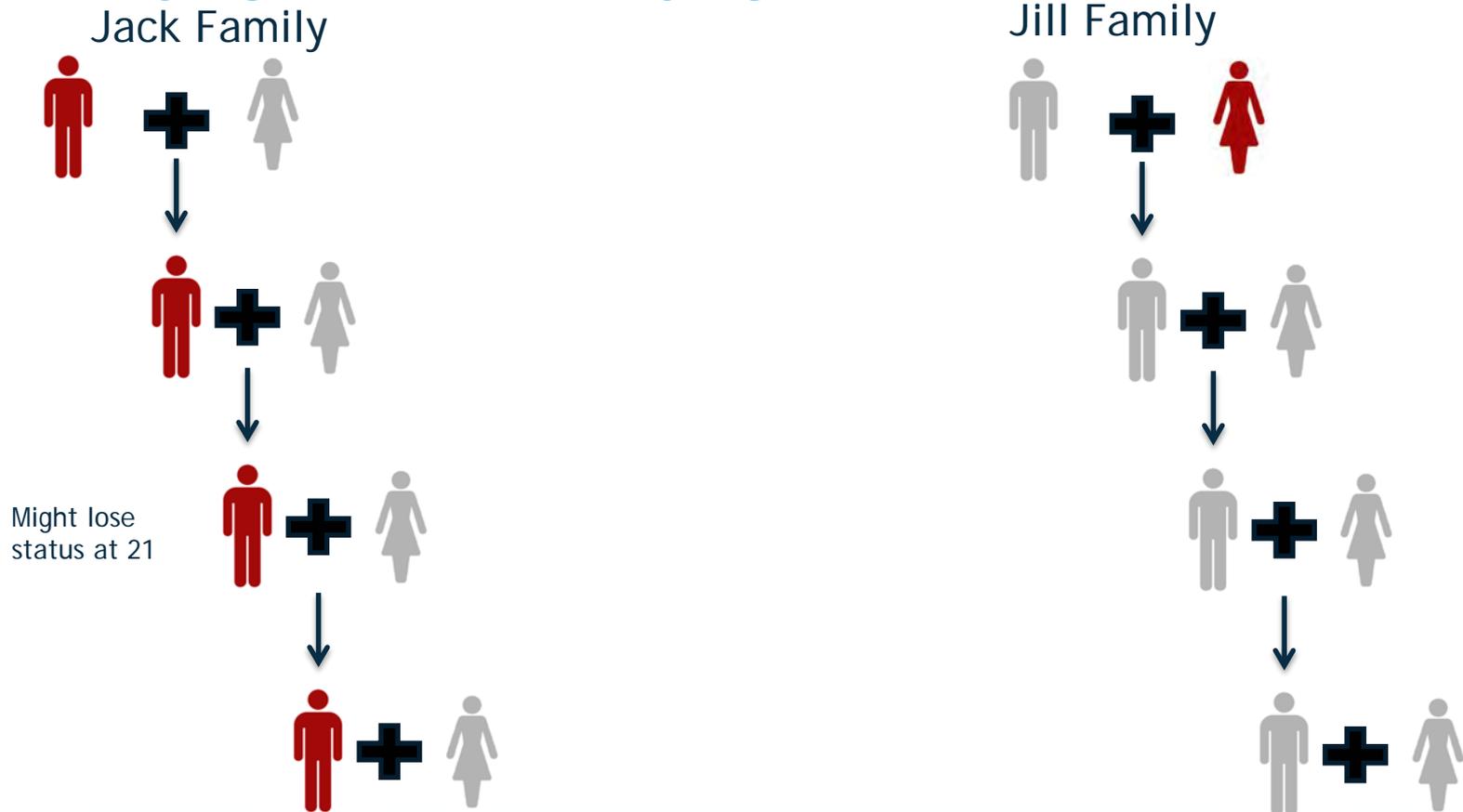
*Canadian Charter of Rights and Freedoms*

Section 15 - Gender  
discrimination is  
unconstitutional

Came into force in 1985



## Problem: the rules discriminate on basis of gender ("marrying in" and "marrying out")



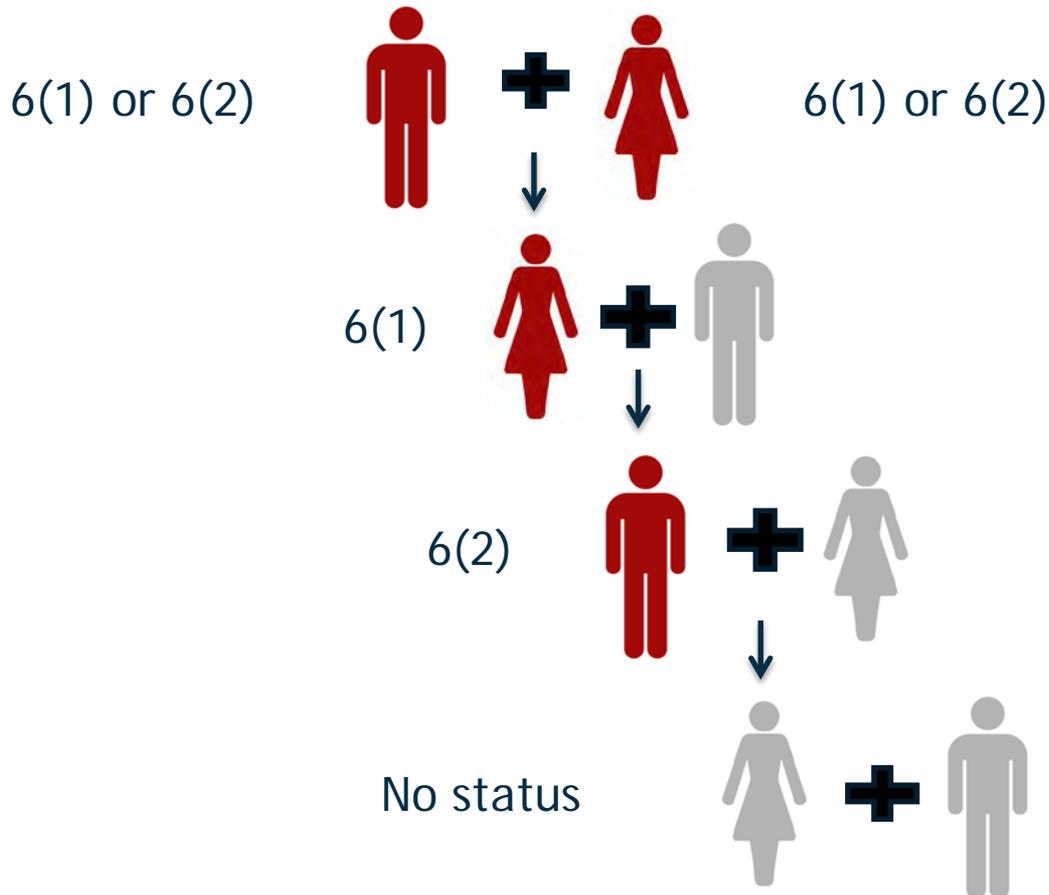
# Who is entitled to status?

April 17, 1985

- Bill C-31
  - Preserved status for anyone entitled prior to April 17, 1985
  - Eliminated “marrying in” and “marrying out” rule
  - Eliminated “double mother” rule
  - Introduced second generation cut-off
  - Introduced unstated paternity policy

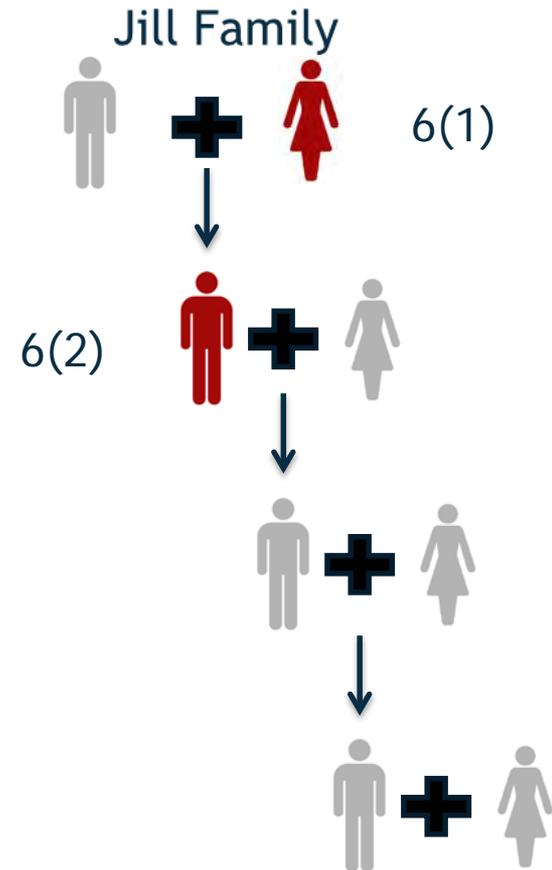
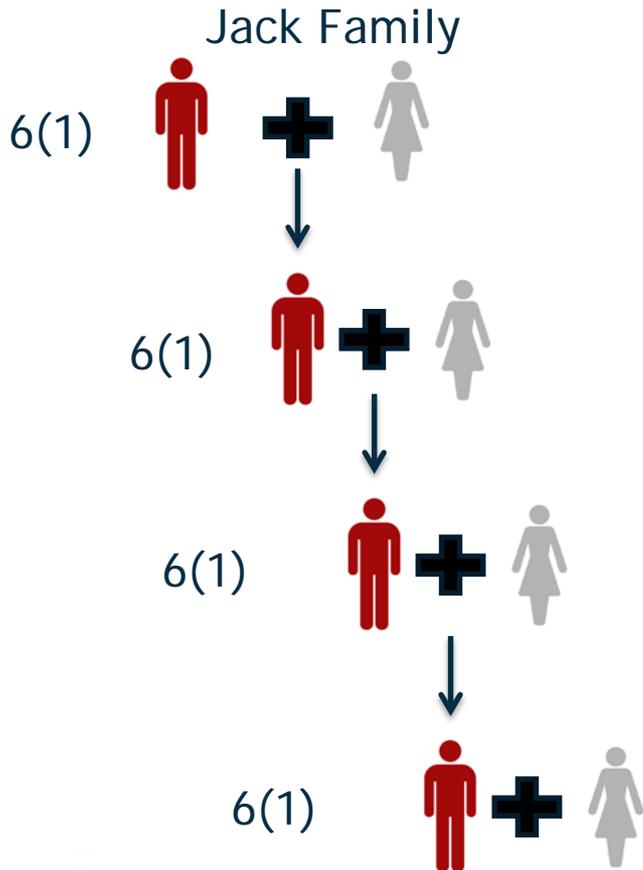
# Who is entitled to status?

## The Second Generation Cut-Off



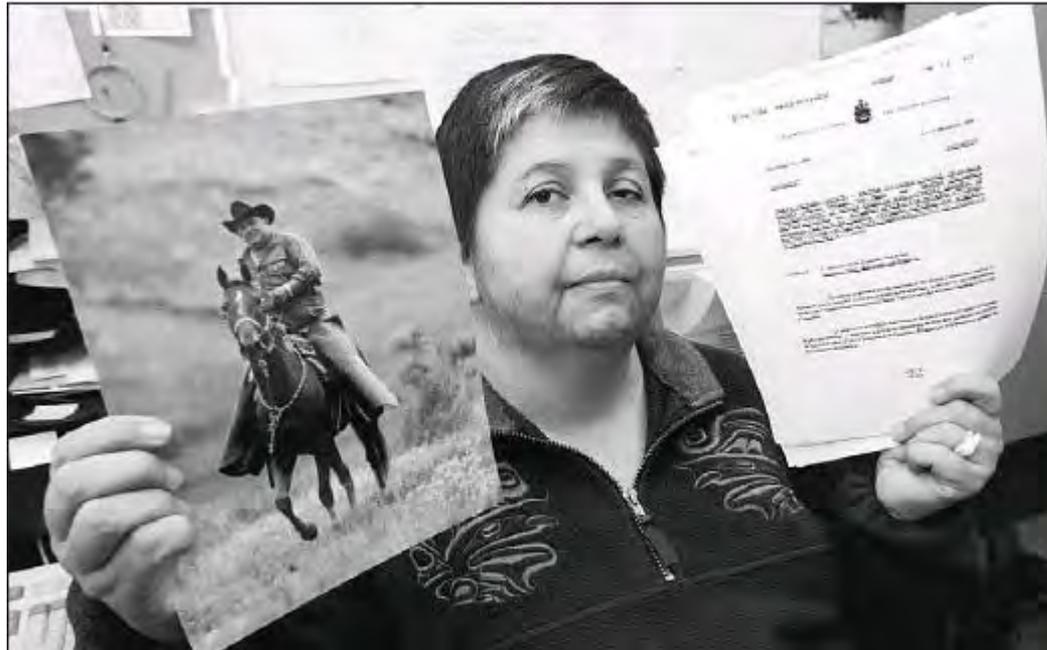
\*Second generation cut-off continues to apply to people who were born after April 17, 1985 and whose parents did not marry prior to April 17, 1985\*

# After Bill C-31



# *Mclvor v Canada*

## April 2009

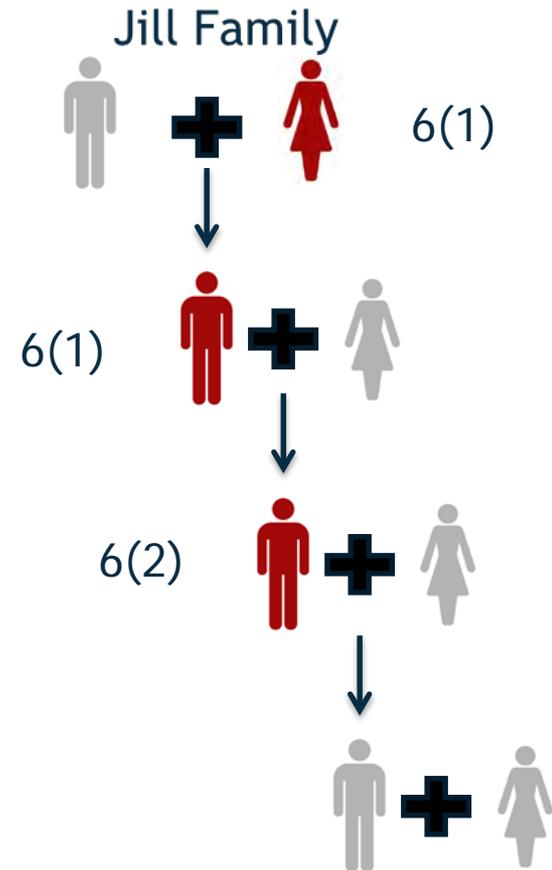
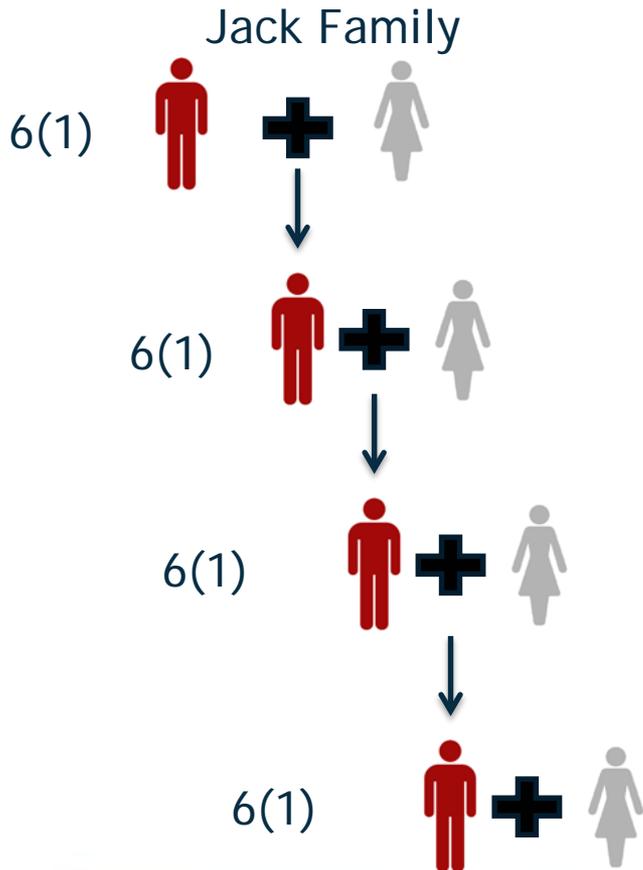


# Who is entitled to status?

2011

- Bill C-3 (response to *Mclvor*)
  - Marrying out “fix” extended entitlement to Indian registration by one more generation for descendants of women who “married out”

# After Bill C-3



# *Descheneaux v Canada*

## August 2015



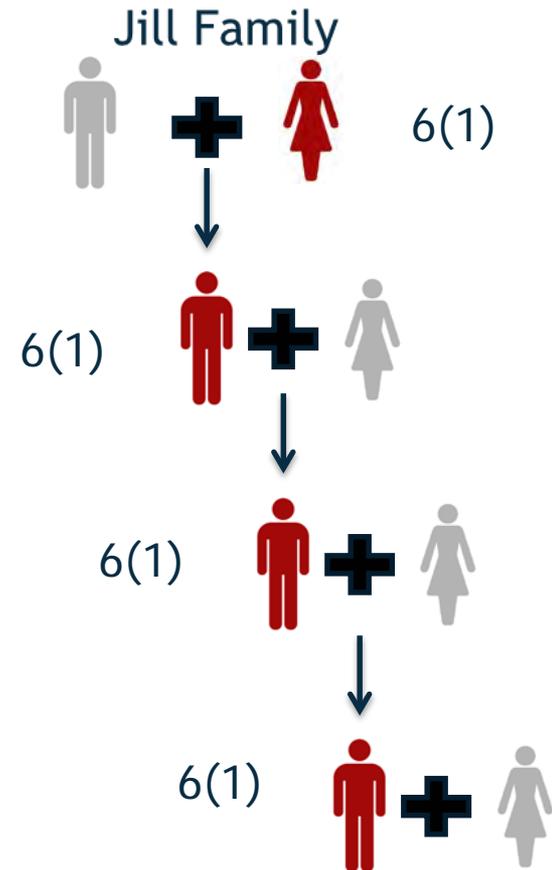
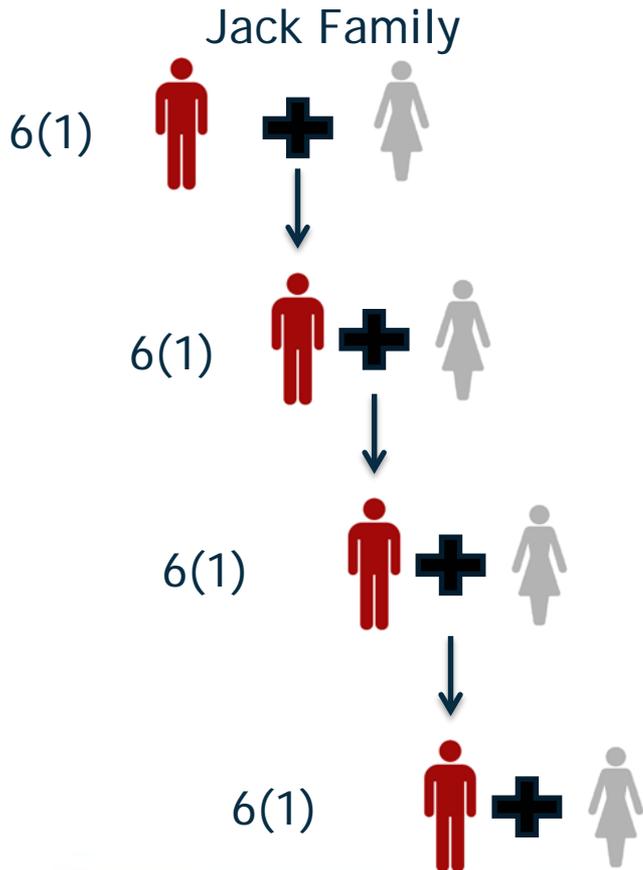
# Who is entitled to status?

Today

- Bill S-3 (response to *Descheneaux*)
  - 2018 - restores status to some descendants of women who married out
  - 2019 - restores status to all descendants of women who married out back to 1869
  - restores status to descendants of children whose step-father was a non-Indian and lost status pre-1985
  - restores status to descendants of illegitimate female children of male Indians pre-1985

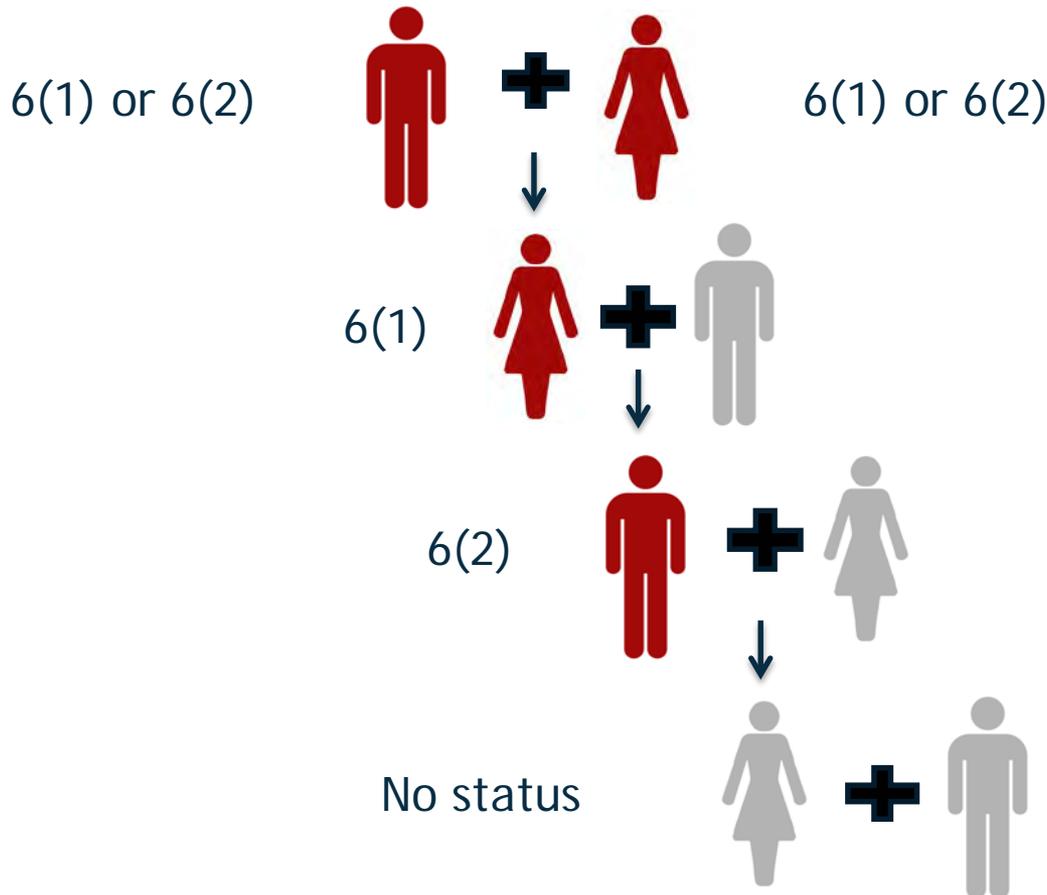
## After Bill S-3

People born or parents married before April 17, 1985



# After Bill S-3

People born after April 17, 1985 and parents not married prior to April 17, 1985



\*Second generation cut-off continues to apply to people who were born after April 17, 1985 and whose parents did not marry prior to April 17, 1985\*



# Helping people apply for status

# Resource Persons and Organizations

- Indian Registration Administrators (IRAs) at Band offices
- Friendship Centres
- UBC Indigenous Community Legal Clinic  
<http://allard.ubc.ca/iclc/indigenous-community-legal-clinic>
- CIRNA/ISC Public Inquiries Contact Centre - 1-800-567-9604, 8:30am-4:00pm M-F in all time zones
- Others?

# Application Process

- Apply through:
  - Own Band office
  - Other Band office (some, ask first)
  - Indigenous Services Canada Regional Office at:
    - Indigenous Services Canada
    - British Columbia Region
    - 1138 Melville Street, Suite 600
    - Vancouver, BC
  - By Mail (to address on application)

# Application Process

- Forms
  - Instructions
  - Application
    - Adult application (16 and up)
    - Child (15 and under) or dependent adult application
  - Guarantor (if submitting by mail)
- Supporting Documentation
  - Long-form birth certificate
  - Identity documents (photocopy signed and dated by Guarantor if applying by email)
  - Passport photos (one signed and dated by Guarantor with statement “This is a true likeness of [name]”)
  - Name-linking documents (marriage certificate, change of name)
  - Adoption order, guardianship order or other documents pertaining to custody
  - Evidence linking applicant to an “Indian” ancestor

# Common Challenges

- Evidence linking applicant to an “Indian” ancestor
  - Particularly challenging for new applicants under Bill S-3
  - Examples:
    - birth certificates
    - death certificates
    - baptismal records
    - marriage certificates\*
    - census records
    - family trees\*
    - historic Band lists and treaty paylists
    - secondary sources
    - community records
    - oral history by way of statutory declaration\*

# Common Challenges

- Unstated paternity
  - Challenges with establishing entitlement through paternal line
  - *Indian Act* now requires Registrar to take flexible approach and consider any evidence presented
  - No presumption father is non-status
  - Registrar still requests statutory declarations from family:
    - mother and father (if possible); or
    - mother and father's family members

# Common Challenges

- Adoptees and Children in Care
  - Challenges with showing ancestral connection
  - Additional evidence for adoption under Canadian law:
    - Adoption order, guardianship order or other legal documentation of guardianship required OR consent of adoptee/guardian to search Provincial records
    - Death certificates (if birth parent(s) deceased)
  - Additional evidence for customary adoption:
    - Signed statement from applicant that they want to apply by way of customary adoption
    - statutory declarations from birth parents, adoptive parents, family members, two elders and quorum or Band council (or BCR)
    - School, medical or other official documentation addressed to adoptive parents
    - Death certificates (if birth parent(s) deceased)

# Common Challenges

- The application process can raise sensitive issues and trauma:
  - Family history and relationships
  - Abuse and sexual assault
  - Disconnection from community
    - exclusion of families from community upon loss of status
    - residential schools
    - removal by child welfare agencies
    - adoption
  - Trauma of process itself and state denial of Indigenous identity

# Common Challenges

- Communicating with the Registrar
  - Inaccessible office
  - Delay (can expedite application for medical, old age, to access programs)
  - Understanding responses and requests from the Registrar

# Protests and Appeals

- Step 1 - Section 14.2 of the Act gives applicant **3 years** to protest a decision not to grant status
  - Provide additional evidence; and/or
  - Explain why Registrar's decision was wrong in law
- Step 2 - Section 14.3 of the Act gives applicant **6 months** to appeal Registrar's decision on a protest under 14.2 in provincial superior court

# When to Seek Legal Advice

- If entitlement is unclear (and there is an affordable legal resource)
- If statutory declarations necessary (or request template from Registrar's Office and see notary)
- If denied and you think Registrar's interpretation of the Act is wrong, not just not enough info
- For protest if there is no additional info you can provide
- For appeal of protest decision

# Resource Materials

- Forms: <https://www.aadnc-aandc.gc.ca/eng/1462806841047/1462806896945>
- Plain text explanation of Bill S-3: <https://www.aadnc-aandc.gc.ca/eng/1478177979520/1568916830922>
- Atira Women's Resource Society, *Your Rights on Reserve: A Legal Toolkit for Aboriginal Women in BC* (2014)  
<https://www.atira.bc.ca/sites/default/files/Legal%20Tool-kit-April-14.pdf> (NOTE: great resource but not up to date with most recent changes to Indian status)
- Native Women's Association of Canada (NWAC): <https://www.nwac.ca/> under "Resources" → "Indian Act" or "Policy Areas" → "Bill S-3"
- Larry Gilbert, *Entitlement to Indian status and membership codes in Canada*, 1996 (NOTE: older resource but good background if interested)



# Questions?

Huy ch q'u  
Thank you





## INSTRUCTIONS

### APPLICATION FOR REGISTRATION ON THE INDIAN REGISTER AND FOR THE SECURE CERTIFICATE OF INDIAN STATUS (SCIS) (FOR ADULTS 16 YEARS OF AGE OR OLDER)

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#### GENERAL INFORMATION

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**This guide is for adults, 16 years of age or older, who are applying for registration and for the Secure Certificate of Indian Status (form 83-168E), including applications made under:**

- Bill C-31: *An Act to Amend the Indian Act*;
- Bill C-3: *Gender Equity in Indian Registration Act*;
- Bill S-3: *An Act to Amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada* (Procureur général); and
- All other applications under the *Indian Act*.

Information on eligibility criteria is available at [Canada.ca/Indian-status](http://Canada.ca/Indian-status).

#### HOW TO OBTAIN FORMS

- ▶ Visit [Canada.ca/Indian-status](http://Canada.ca/Indian-status), or call 1-800-567-9604 to obtain forms.
- ▶ To complete the application, it may be necessary to include a **Guarantor Declaration (form 83-169E)** or a **Statutory Declaration in Lieu of Guarantor (form 83-170E)**. A Guarantor or Statutory Declaration is required if you send the application by mail.

A guarantor is a person who can confirm the identity of the applicant. To act as guarantor, the person must meet the criteria detailed on the Guarantor Declaration form.

If an eligible guarantor is not available, the applicant must provide two (2) references who can confirm his/her identity. The Statutory Declaration in Lieu of Guarantor form must be completed and signed before a Commissioner for Oaths, notary public or lawyer.

#### HOW TO SUBMIT THE APPLICATION

- ▶ Please review the instructions on the application form.

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#### SECTION 1: PERSONAL INFORMATION

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- **The name(s)** provided on the application form must be supported by legal documents or name-linking documents (refer to the Name-Linking Documents section on page 3 of this guide).
- **The permanent address** is your home address.
- **The address on reserve box** must be checked if your permanent address is located on reserve.
- **The mailing address** may be a temporary address where mail can be sent. Include your mailing address if it is different from the permanent address.

**Note:** If your address changes after sending the application, please inform us by calling 1-800-567-9604 to avoid delays in receiving correspondence or the Secure Certificate of Indian Status (status card).



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## SECTION 2: FIRST NATION / BAND CHOICE

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- ▶ Complete this section if you have the option of choosing from more than one First Nation/Band, namely:
    - your mother's most recent First Nation/Band;
    - your father's most recent First Nation/Band; or
    - the First Nation/Band your mother or father was registered with, immediately prior to enfranchisement.
  
  - ▶ Before making a selection, you may wish to contact these First Nations/Bands for more information on their membership processes and benefits.
- 

## SECTION 3: DOCUMENT REQUIREMENTS

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### A. PROOF OF BIRTH DOCUMENT

#### Requirements:

- An **original proof of birth document is required**. The document will be returned to you within four (4) weeks of receiving your application. Photocopies or certified copies are not acceptable. (An original document is required to verify that the document is official, genuine and has not been altered.)
- A birth certificate listing the **names of your parent(s)** is required.  
**Note:** If you were adopted, you must provide an original birth certificate listing the names of your adoptive parent(s).
- Any alteration to the document will make it unacceptable.
- **The document must be in English or French**. If the document is in another language, you must provide the original document and a translation into English or French. The translation must be done by a professional translator.

#### Acceptable proof of birth documents include:

- A Canadian birth certificate issued by a provincial or territorial vital statistics agency.
- A Quebec birth certificate issued by the Directeur de l'état civil after January 1, 1994. If you have a birth certificate that was issued before January 1, 1994, you must request a new one.
- A Quebec birth certificate with a place of birth outside of Quebec (elsewhere in Canada or in the United States) issued by the Directeur de l'état civil after January 1, 1994, with the mention "certifié conforme".
- A baptismal certificate is acceptable only for applicants born before 1952. It must be issued by a church and must contain the name, date of birth, sex, the parents' full names, and the date of issue.
- A Canadian vital statistics birth extract in compliance with current memoranda of understanding/information sharing agreements with vital statistics offices.
- A birth certificate issued in the United States by a state, county, city or town official authorized to do so by the state (for example, the Department of Health). Some states issue only certified copies, in which case these documents are acceptable.
- A birth certificate and registration of birth issued in a country other than Canada and the United States. Applicants must provide the original document as issued by their birth country and a translation into English or French, if the document is in another language. The translation must be done by a professional translator.



## B. NAME-LINKING DOCUMENTS

- ▶ If you wish to register and/or obtain a Secure Certificate of Indian Status (SCIS) under a name other than the name listed on your proof of birth document, you must provide one or as many legal documents as necessary to make the link between the name listed on your birth document and the name under which you are applying for registration and/or for the SCIS.

### Requirements:

- You may provide the **original** name-linking document(s). The document(s) will be returned to you within four (4) weeks of receiving your application.
- A **photocopy** of the name-linking document(s) is acceptable **if you also provide** a photocopy of a government-issued identity document with the name under which you are applying for registration and/or for the SCIS (for example, a driver's licence).

### Acceptable name-linking documents include:

- A legal change of name certificate;
- A marriage certificate;
- A common-law relationship certificate (Manitoba);
- A certificate to dissolve a registered common-law relationship;
- A resumption of surname certificate;
- A court order (for example, a separation agreement or a divorce order/judgment) issued by a court of law in or outside Canada.

**Note for Quebec residents:** A name change as a result of marriage is not permitted if both spouses are residents of Quebec, even if they were married outside Quebec. However, women married before April 2, 1981, who were using their spouse's last name before that date may continue to do so. For additional information, please refer to the **Change of Name** section of the Directeur de l'état civil's website (<http://www.etatcivil.gouv.qc.ca/en/change-name.htm>).

## C. SUPPORTING IDENTITY DOCUMENTS

### Requirements:

- Identity documents must be valid.
- **Supporting identity documents must be in English or French.** If they are in a language other than English or French, you must provide the documents and a translation done by a professional translator.
- **Photocopies** of your supporting identity documents are acceptable, **provided you include a Guarantor Declaration form with the application.** The form must contain the signature of the guarantor. The guarantor must sign and date the photocopies of the front and back of your supporting identity documents, confirming that the original documents have been seen. **If you send the application by mail, it is recommended that you include photocopies of your supporting identity documents and a Guarantor Declaration form.**
- **If you are submitting the application in person, it is recommended that you bring your original identity documents.** Photocopies will be made on site and you will retain your original documents.



**Acceptable Supporting Identity Documents:**

**Option 1** - You may provide **one (1) document** that contains **your full name, date of birth, photo and signature**, among these:

- A passport;
- A driver's license issued by a province or territory;
- An enhanced provincial or territorial driver's license;
- A Canadian military identification document;
- An identification card issued by a province or territory;
- An enhanced provincial or territorial identification card;
- A provincial, territorial or federal Correctional Services identity document (with or without a signature);
- A health card issued by a province or territory if it shows your name, date of birth, photo and signature;
- A Canadian citizenship card issued prior to February 1, 2012;
- A Canadian permanent resident card with signature (issued before February 4, 2012);
- A U.S. permanent resident card.

**Option 2** - If you do not have a document listed under option 1, you may provide **more than one of the following documents that, when combined together, include your full name, date of birth, photo and signature.**

- A health card issued by a province or territory;
- A U.S. passport card;
- A NEXUS or FAST card;
- A government employee identification card;
- A Canadian permanent resident card without signature (issued after February 4, 2012);
- A firearms license;
- A U.S. Old Age Security card.

**Option 3** - If you do not have more than one identity document that, when combined together, include your full name, date of birth, photo and signature, you must provide **one (1) document listed under option 2, and a Guarantor Declaration form.** The form must contain the signature of the guarantor. The guarantor must sign and date the back of one (1) of your photos and write the statement "this is a true likeness of (your name)". If you include a photocopy of your identity document, the guarantor must also sign and date the photocopy of the front and back of the document.

**The following documents are not accepted:**

- Social Insurance / Old Age Security Card;
- Certificate of exemption (gas card);
- Commemorative citizenship certificate;
- Certificate of Canadian Citizenship (issued on or after February 1, 2012);
- Student identification card;
- Tribal or Band card;
- Pleasure boat license card;
- Library card;
- Bus pass;
- Blood donor card;
- Private health insurance card;
- Credit cards and other banking cards;
- Temporary identification card;
- Municipal identification card;
- Outdoors card.



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## SECTION 4: ADOPTION INFORMATION

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- ▶ Complete this section **ONLY** if you were adopted as a child.
- ▶ Include a photocopy of the **Adoption Order** or a photocopy of a **letter from the Social Services authorities** involved with the adoption confirming the details of the adoption: the names of the adoptive parent(s), the adoptee's full name as it appears on the Adoption Order, and the date and place of the adoption.
- ▶ Include a signed and dated consent form giving the Indian Registrar permission to contact the Social Services authorities for information on your birth ancestry. To obtain the consent form, call 1-800-567-9604.
- ▶ Complete the Family Information section (section 5) with your adoptive parents' information if you believe you are entitled to registration through them. If you believe you are entitled to registration through your birth parents, provide your birth parents' information, if it is available to you.
- ▶ Please mail the application to the Adoption Unit at 10 Wellington Street, Gatineau, Quebec, K1A 0H4.

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## SECTION 5: FAMILY INFORMATION

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Family information is important to determine your entitlement to registration.

- ▶ Provide family information (genealogy) up to the first registered family member (for example, if your mother is registered, information on maternal grandparents and great-grandparents is not required).
- ▶ If available, provide the registration number (10-digit number) and Band name of family members. (The absence of registration numbers for family members could delay the processing of your application.)
- ▶ If you are not able to provide information on your grandparents and great-grandparents, you may wish to provide information on other relatives in the Additional Family Information section (include information such as: last and first names, any known aliases or maiden/nee names, relationship, date of birth, Band name).

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## SECTION 6: PHOTOS AND SIGNATURE FOR THE SECURE CERTIFICATE OF INDIAN STATUS

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- ▶ Complete this section **ONLY** if you are requesting the **Secure Certificate of Indian Status (SCIS)**.

**1. SIGNATURE** (The signature will appear on the SCIS that will be issued to you.)

- ▶ **Sign your name inside the designated signature box without touching the border.**
- You may sign with an "X", in syllabics or another language, as long as this is your usual legal signature. If an applicant is unable to write, the words "SIGNATURE NOT REQUIRED" will appear on the SCIS.

### 2. PHOTOS

- ▶ Provide two (2) identical and unaltered Canadian passport-style photos, taken within the last twelve (12) months from the date the application is submitted.

**Note:** U.S. passport photo specifications do not meet SCIS photo requirements.



**The photos must meet the following requirements:**

- Photo size: 50 mm wide x 70 mm high (2 inches wide x 2 3/4 inches high).
- The face, from chin to crown of the head, must measure between 31 and 36 mm (1 1/4 inch and 1 7/16 inch).
- Photos must be original and not taken from an existing photograph.
- Photos must be printed on plain, high quality photographic paper. Heavyweight paper is not acceptable.
- The image must be clear, sharp and in focus. Photos can be in color or black and white.
- Facial features must appear clearly against a white or light-coloured background.
- Shadow across the face or shoulders, around the ears or in the background is not acceptable.
- The photo must show a full front view of the face and top of the shoulders squared to the camera, and centred in the photo.
- Hats and other head coverings must not be worn, except for religious or medical reasons. If worn, the hat or other head covering must not cast shadows on the face and the full face must be clearly visible.
- The face must show a neutral expression and the mouth must be closed.
- Eyes must be open and clearly visible. Glasses, including tinted prescription glasses, are acceptable as long as the eyes are clearly visible and there is no glare or reflection on the face or glasses. Sunglasses are not acceptable.

**The following must appear on the back of one (1) photo:**

- The name and address of the studio or person who took the photo, and the date the photo was taken (not the date the photo was printed).
- If you are submitting the application by mail, your guarantor must sign and date the back of the photo, and write the statement: "this is a true likeness of (your name)".

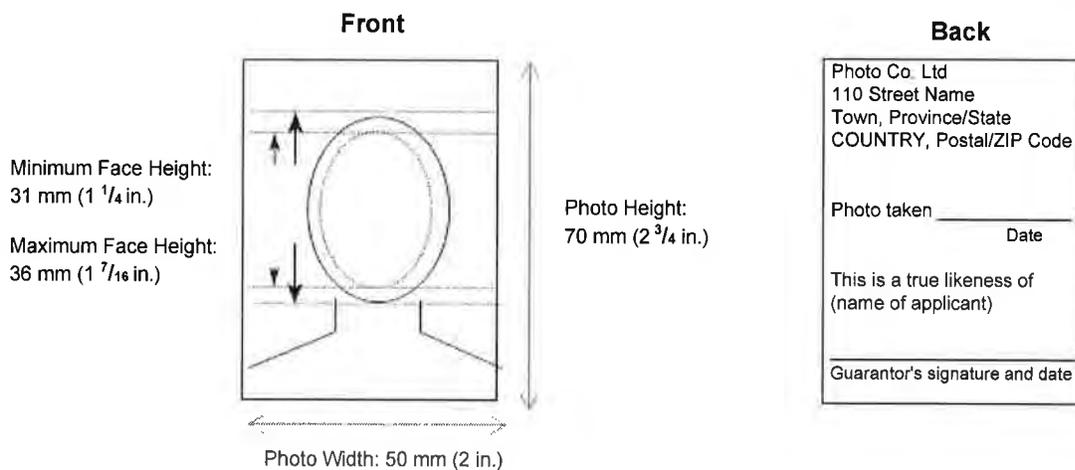


Image is not the actual size (refer to specified measurements)

**SECTION 7: DECLARATION AND SIGNATURE**

- ▶ Please do not forget to date and sign the Declaration and Signature section to avoid delays in the processing of your application.



## APPLICATION FOR REGISTRATION ON THE INDIAN REGISTER AND FOR THE SECURE CERTIFICATE OF INDIAN STATUS (SCIS) (FOR ADULTS 16 YEARS OF AGE OR OLDER)

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### GENERAL INFORMATION

- ▶ Please review the instructions (83-168E-I) to complete the application.
- ▶ To complete the application, you may need to include a Guarantor Declaration (form 83-169E) or a Statutory Declaration in Lieu of Guarantor (form 83-170E). A Declaration is required if the application is sent by mail.
- ▶ To obtain forms or the instructions, visit [canada.ca/indian-status](http://canada.ca/indian-status), or call 1-800-567-9604.
- ▶ Original documents included with the application will be returned to you.
- ▶ If you need to include a Guarantor Declaration form with the application, you must submit the form with the **signature of the guarantor**. A guarantor is a person who can confirm your identity.

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### HOW TO SUBMIT YOUR APPLICATION

#### IN PERSON:

- At the regional office nearest you. As an appointment may be required, it is recommended that you call ahead of time.
- For the list of regional offices, visit [canada.ca/indian-status](http://canada.ca/indian-status), or call 1-800-567-9604.

#### BY MAIL:

- If you send the application by mail, you must include a Guarantor Declaration form with the **signature** of the guarantor.
- The guarantor must sign and date the photocopies of the front and back of your supporting identity documents.  
**Note:** You must still include your **original** proof of birth document.
- If you are applying for registration AND for the Secure Certificate of Indian Status, the guarantor must also sign and date the back of one (1) of your photos and write the statement "this is a true likeness of (your name)".

Send the application to:

**National Registration Processing Unit**  
10 Wellington Street  
Gatineau, Quebec K1A 0H4

For applications made under Bill S-3: *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procureur général)*, or under Bill C-3: *Gender Equity in Indian Registration Act*, send to:

**Application Processing Unit**  
Box 6700  
Winnipeg, Manitoba R3C 5R5



## CHECKLIST

### Application Form

- Section 7 of the application must be signed and dated.

### Birth Document

- Include an **original** birth certificate listing the **names of your parents**. A photocopy is not acceptable.

**Note:** If you were adopted, you must provide an original birth certificate listing the names of the your **adoptive parent(s)**.

### Supporting Identity Documents

Supporting identity documents must contain the following four (4) elements: full name, date of birth, photo and signature.

#### ► Include with the application:

- One (1) identity document that contains **all** the elements listed above, OR
- More than one identity document that, combined together, contain **all** the elements listed above, OR
- One (1) identity document that contains **some** but not **all** the elements listed above and a Guarantor Declaration form.

#### ► You may include:

- Original** identity documents (recommended if submitting the application in person), OR
- Photocopies** of the supporting identity documents and a **Guarantor Declaration form**. The guarantor must sign and date the photocopies of the front and back of the identity documents (recommended if sending the application by mail).

### Name-Linking Document(s)

If you are applying under a name that is different than the name on your birth certificate, you must provide a name-linking document, such as a marriage certificate and a legal name change certificate.

#### ► If applicable, include with the application:

- An **original** name-linking document, OR
- A **photocopy** of the name-linking document and a photocopy of a government-issued identity document that has your name as it appears on the application form (for example, a driver's licence).

### Photos

- Include two (2) unaltered, identical, Canadian passport-style photos. The name and address of the studio or person who took the photo, and the date the photo was taken must be indicated on the back of one (1) photo. Photos are required only if a Secure Certificate of Indian Status is requested.

### Adoption

#### ► If you were adopted as a child, include with the application:

- A photocopy of the **adoption order** or photocopy of the **letter from the Social Services authorities** confirming the details of the adoption: names of the adoptive parent(s), full name of adoptee as it appears on the adoption order, and date and place of adoption.
- A signed and dated consent form giving the Indian Registrar permission to contact the Social Services authorities for information on your birth ancestry. To obtain the consent form, call 1-800-567-9604.
- A photocopy of your pre-adoption birth certificate (optional, if available).

### Mail-In Application

- If submitting the application by mail, include a Guarantor Declaration form (see instructions on previous page).





**SECTION 3: Document Requirements**

**A. Proof of Birth Document**

Original document included

Registration Number on Birth Document	Province/Territory of Issuance	State (USA) of Issuance
---------------------------------------	--------------------------------	-------------------------

**B. Name Linking Document(s)**

(Provide if the name used on this application is different than the name listed on your proof of birth document)

Name (exactly as it appears on the document)	Document Type

**C. Supporting Identity Document(s)**

Document Type	Document Number	Expiry Date (YYYYMMDD) (if applicable)
Name (exactly as it appears on the document)		
Name (exactly as it appears on the document)		
Name (exactly as it appears on the document)		
Name (exactly as it appears on the document)		

**SECTION 4: Adoption Information**

(Complete this section ONLY if you were adopted as a child)

I was adopted as a child, and I believe that I have entitlement to Indian status through (select all that apply)

My adoptive mother       My adoptive father       My birth mother       My birth father

**Adoptive Mother**

Family Name	Given Name(s)	Date of Birth (YYYYMMDD)
-------------	---------------	--------------------------

**Adoptive Father**

Family Name	Given Name(s)	Date of Birth (YYYYMMDD)
-------------	---------------	--------------------------

**Birth Mother (if known)**

Family Name	Given Name(s)
-------------	---------------

**Birth Father (if known)**

Family Name	Given Name(s)
-------------	---------------

- ▶ If you believe that you are entitled to Indian status through your **adoptive parent(s)**, complete the Family Information (section 5) with your **adoptive parents'** information.
- ▶ If you believe that you are entitled to Indian status through your **birth parent(s)**, complete the Family Information (section 5) with your **birth parents'** information, if available.



**SECTION 5: Family Information**

**A. Father**

Family Name		Family Name at Birth (if different)	Given Name(s)
Date of Birth (YYYYMMDD)	First Nation/Band Name		First Nation/Band (3 digits) Number or Registration (10 digits) Number
Was the father adopted? <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Unknown <input type="checkbox"/> Parent not stated on the birth document			

**B. Mother**

Family Name		Family Name at Birth (if different)	Given Name(s)
Date of Birth (YYYYMMDD)	First Nation/Band Name		First Nation/Band (3 digits) Number or Registration (10 digits) Number
Was the mother adopted? <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Unknown			

**C. Maternal Grandparents**

(Provide information up to the first person registered. For example, if your mother is registered, information on the grandparents and great-grandparents is not required)

Family Name	Family Name at Birth (if different)	Given Name(s)	Date of Birth (YYYYMMDD)	First Nation/Band Name or Registration No.	Adopted Yes/No
Grandfather					
Grandmother					
Great-Grandfather (1)					
Great-Grandmother (1)					
Great-Grandfather (2)					
Great-Grandmother (2)					

**D. Paternal Grandparents**

(Provide information up to the first person registered. For example, if your father is registered, information on the grandparents and great-grandparents is not required)

Family Name	Family Name at Birth (if different)	Given Name(s)	Date of Birth (YYYYMMDD)	First Nation/Band Name or Registration No.	Adopted Yes/No
Grandfather					
Grandmother					
Great-Grandfather (1)					
Great-Grandmother (1)					
Great-Grandfather (2)					
Great-Grandmother (2)					



Additional Family Information (optional): List the names of other registered relatives such as brothers, sisters, aunts, uncles, cousins. (Add separate pages if additional space is required)

SECTION 6: Photo and Signature to Appear on the Secure Certificate of Indian Status (SCIS)

Select what applies to you.

- Two (2) unaltered, identical, Canadian passport-style photographs are included / SCIS not requested

Sign your name inside the box without touching the borders. You may sign with an "X", in syllabics or another language, as long as this is your usual legal signature.

Large empty rectangular box for signature.

SECTION 7: Declaration and Signature

Failing to sign and date the declaration will delay the processing of your application.

I solemnly declare that all statements made in this application are true, all documents provided to support this application are unaltered, and the enclosed photographs (if requesting a Secure Certificate of Indian Status) are a true likeness of me. I have read and understand the Notice to Applicants and the Privacy Act Statement.

If eligible, I (Print Name), request to be registered in the Indian Register and, if applicable, to have

my name entered on a First Nation/Band List, as provided for under the Indian Act. I further request to have a Secure Certificate of Indian Status issued to me (if applicable).

Signature

Date (YYYYMMDD)

X

SECTION 8: Indian Registration Administrator (IRA)

If an IRA assisted in completing this form, he or she must complete and sign this section.

Table with 4 columns: Name, First Nation/Band Number or Initiator Code, IRA Signature, Date (YYYYMMDD). Includes an 'X' in the IRA Signature column.



## REGISTRATION AND SECURE CERTIFICATE OF INDIAN STATUS (SCIS) GUARANTOR DECLARATION

### GENERAL INFORMATION

A guarantor is a person who can confirm the identity of the applicant.

**Family members** may act as guarantors only if they meet all the criteria listed below.

A **parent or legal guardian** applying for registration or for the Secure Certificate of Indian Status (SCIS) on behalf of a child or dependent adult **cannot act as guarantor** for the child or dependent adult.

**The guarantor must perform the following tasks, as needed, free of charge:**

- Complete and sign the Guarantor Declaration form.
- Sign and date the photocopies of the front and back of the applicant's identity documents.
- Sign and date the back of one (1) of the applicant's Canadian passport-style photographs, and write the following statement: "This is a true likeness of (name of applicant or child or dependent adult)."

### CRITERIA

**The guarantor:**

- Must be 18 years of age or older.
- Must reside in Canada or the United States.
- Must be reachable for verification by the Department.
- Must have known the applicant personally **for at least two (2) years**.

**Note:** To know the applicant personally means that the guarantor is able to confirm information about the applicant, such as the name, approximate age, place of birth, physical description and some personal history such as place of residence.

**The guarantor must be someone from the following list:**

- Holder of a valid SCIS (who was 16 years of age or older when he/she applied for the card)
- Indian Registrar or Deputy Registrar
- Elected or appointed official (Band chief or councillor, **Indian registration administrator**, mayor, member of Parliament/Legislative Assembly)
- Medical professional (dentist, medical doctor, optometrist, pharmacist, chiropractor or registered nurse)
- Judge, magistrate or police officer (First Nations; RCMP; municipal, provincial, territorial police)
- Lawyer, notary public
- Minister of religion
- Postmaster/postmistress
- Senior university/college/school administration official and professor/teacher
- Professional accountant
- Professional engineer
- Registered social worker or social service worker
- Military personnel (only for Regular Force members and their dependents)
- Other occupations: visit [www.canada.ca/indian-status](http://www.canada.ca/indian-status) for a more detailed list.

If an eligible guarantor is not available, the applicant must complete the Registration and Secure Certificate of Indian Status Statutory Declaration in Lieu of Guarantor (form 83-170E), and provide **two (2)** references who are not relatives.

**The references:**

- Must be 18 years of age or older.
- Must reside in Canada or the United States.
- Must be reachable for verification by the Department.
- Must have known the applicant personally **for at least two (2) years**.

**Note:** The Statutory Declaration in Lieu of Guarantor (form 83-170E) must be completed and signed before a Commissioner for Oaths, notary public or lawyer.



## REGISTRATION AND SECURE CERTIFICATE OF INDIAN STATUS (SCIS) GUARANTOR DECLARATION

**Privacy Act Statement**

This statement outlines the purposes for the collection and use of personal information. Only information needed to respond to program requirements will be requested. Collection, use, and disclosure of personal information are in accordance with the *Privacy Act*. In some cases, information may be disclosed without your consent pursuant to subsection 8(2) of the *Privacy Act*. The authority to collect and use personal information for the Indian Registration and the Secure Certificate of Indian Status programs is derived from the *Indian Act*. We use the personal information we collect to determine entitlement to registration on the Indian Register and membership in a First Nation for which the Band List is maintained by the Department, to issue a Secure Certificate of Indian Status to registered persons, and for the provision of benefits and services conferred exclusively to those who are registered. We may share the personal information you provide as outlined under Personal Information Bank AANDC PPU110 (Info Source <http://www.aadnc-aandc.gc.ca/eng/1100100011039/1100100011040>). The information collected is retained by the Department for 30 years after the last administrative action and then transferred to Library and Archives Canada (or as described in the Personal Information Bank). As stated in the *Privacy Act*, you have the right to access the personal information you give us and request changes to incorrect information. If you have questions or wish to notify us of incorrect information, you may call us at 1-800-567-9604. For more information on privacy issues and the *Privacy Act* in general, you can consult the Privacy Commissioner at 1-800-282-1376.

► **Complete this form online, or write in block letters using black or dark blue ink.**

**Applicant Information**

► For the purposes of this form, the applicant is the adult (16 years of age or older) applying for registration and/or for the Secure Certificate of Indian Status (SCIS), or the parent/legal guardian applying for a child (15 years of age or younger) or dependent adult.

Family Name	Given Name(s)		
Alias / Cultural Name (if applicable)	Date of Birth (YYYYMMDD)	Registration Number (10 digits) (if applicable)	
<i>I certify that I am the person (applicant) named above</i>	Signature of Applicant		Date (YYYYMMDD)
	X		

**Name of Child/Dependent Adult (if applicable)**

Family Name	Given Name(s)
-------------	---------------

**Guarantor Information and Declaration**

Family Name	Given Name(s)
-------------	---------------

**Permanent Address**

Number, Street, Apartment, P.O. Box			
City/Town	Province/Territory (Canada)	State (USA)	Postal/ZIP Code
SCIS Serial Number (on the back of the card)		Occupation (if guarantor does not have an SCIS)	
Applicant known for _____ years (minimum 2 years)		Telephone Number (Daytime)	Name of Firm/Organization (if applicable)

**Instructions for guarantor:** As needed, you must **sign** and **date** the photocopies of the front and back of the documents that support the applicant's identity. You must also **sign**, **date** and **write** the statement "This is a true likeness of (name of applicant or child or dependent adult)" on the back of **one (1)** of the two photographs.

I **solemnly declare** that I am at least 18 years of age and have known the applicant named above personally for at least **two (2)** years. I have signed and dated the back of one photo and confirm that the image is a true likeness of the applicant, child or dependent adult, (if a Secure Certificate of Indian Status is requested). I have signed a photocopy of the front and back of each document to support the applicant's identity and confirm that I have seen the original document(s). I understand that any false or misleading statement relating to this form and any document in support of the application, including the concealment of any material fact, may be grounds for criminal prosecution.

**Signature of Guarantor**

X

Date (YYYYMMDD)

recognizing and  
respecting trauma &  
resilience in the  
Indigenous client +  
making the case for  
becoming a trauma-  
informed lawyer

2019 Provincial  
Advocates Conference

October 10, 2019



- ▶ In 1876, the Indian Act was created to control and assimilate Indians. It gave Canada control over every aspect of Indian life. Though it has been amended several times, it continues to serve to discriminate against Indigenous women and disenfranchise the entire Indigenous population
- ▶ The first IRS to operate was the Mohawk Industrial School in Brantford, ON which opened in 1831
- ▶ The Indian Act made attendance at IRS mandatory in 1884 and the purpose was to “kill the Indian in the child” (Duncan Campbell Scott)
- ▶ The last IRS to operate was Gordon IRS in southern Saskatchewan which closed in 1996
- ▶ After 122 years of using law and policy to assimilate Indigenous children in IRS which included extreme and horrific abuses, an IRSSA was est. in 2006 to compensate survivors

the Indian Act

Indian residential  
schools

- ▶ Many Indians, non-status Indians and Metis attended day schools and experienced the same type of abuse that IRS survivors experienced
- ▶ These survivors were excluded from the IRSSA
- ▶ In August 2019, the federal court approved a class-action settlement against Canada to compensate survivors who attended federally run day schools

day schools

- ▶ From the mid 1940s, Canada established racially segregated “Indian hospitals” for the treatment of TB in First Nations and Inuit peoples in Canada until the mid 1980s
- ▶ In early 2018, a class-action lawsuit was filed against Canada for abuses (similar to those which occurred in IRS and day schools) which took place at these hospitals

## Indian hospitals

- ▶ The Sixties Scoop is the catch-all name for a series of policies enacted by provincial child welfare authorities starting in the mid-1950s, which saw thousands of Indigenous children taken from their homes and families, placed in foster homes, and eventually adopted out to white families from across Canada and the United States. These children lost their names, their languages, and a connection to their heritage
- ▶ A class-action settlement was approved and survivors of the 60s scoop had until August 31, 2019 to apply for a nominal settlement amount, not exceeding 50k. This settlement excluded non-status Indians and Metis survivors
- ▶ The Millennial Scoop is the practice of placing FN youth in out-of-home care (away from comm). A class-action was filed in March 2019 to compensate First Nations youth, on and off reserve
- ▶ Today, there are more Indigenous children in the child welfare system than at the height of the IRS system

the 60s, 70s, 80s  
and millennial  
scoop

In British Columbia, Indigenous people make up about 5.4 percent of the general population.

But in B.C. prisons in 2016/17, Indigenous people accounted for 30 percent of adult inmates in male prisons and 47 percent of adult inmates in female prisons.

Those numbers are included in a new [Statistics Canada report](#) on the country's correctional systems.

The June 2018 analysis goes on to show that the extent to which Indigenous people are disproportionately represented in B.C. prisons has grown worse in recent years.

In 2006/07, Indigenous people accounted for 20 percent of male inmates in B.C. compared to 30 percent in 2016/17, and 29 percent of female inmates compared to 47 percent in 2016/17.

Source: <https://www.straight.com/news/1094481/bc-prisons-are-filled-hugely-disproportionate-numbers-indigenous-inmates-stats-canada>

## imprisoning Indigenous peoples in Canada

- ▶ Indigenous Women are 3.5 times more likely to experience violence than non-Indigenous women in Canada
- ▶ 54% of Indigenous women reported severe forms of family violence, such as being beaten, being choked, having had a gun or knife used against them, or being sexually assaulted, *versus 37% of non-Indigenous women*
- ▶ Homicide rates for Indigenous women are almost 7 times higher than those of non-Indigenous women and are more likely to go unsolved (53% of murder cases in NWAC's Sisters in Spirit database have been solved, compared to 84% of all murder cases across Canada)
- ▶ Approximately 75% of survivors of sexual assault in Indigenous communities are girls under 18 years of age.

## violence against Indigenous women

- ▶ Indigenous women in Canada between the ages of 25-44 are 5 times more likely than all other Canadian women in the same age group to die as a result of violence
- ▶ 90% of federally sentenced Indigenous women have reported physical and sexual abuse
- ▶ 84% of homeless Indigenous girls have been sexually abused
- ▶ Every 8 days, an Indigenous woman goes missing in Canada
- ▶ There are thousands of missing and murdered Indigenous women and girls in Canada with a high rate of unsolved cases

(Content by Chastity Davis Consulting)

violence  
against  
Indigenous  
women cont'd

- ▶ In *R. v. Holmes*, 2018 ABQB 916, Justice Langston began dispensing with the sentencing of an Indigenous woman who killed her spouse with these comments:

This is an Aboriginal offender. She is in a system which is imposed upon Aboriginal people, and I use that word deliberately. Our history, in relation to Aboriginal people, is one of deliberate destruction. We have systematically destroyed their culture, their way of living. We have done everything we can to take from them their sense of spirituality and identity. I'm not saying anything new. You can look in the volumes of reports and studies that have been done on Aboriginal people for decades. Those reports sit, gathering dust, in libraries and Parliament building (para 2).

...Aboriginal people are entitled to a sense of dignity when they come into our courts. They are entitled to a recognition of their history and their culture, and you cannot talk about those two things without a notional recognition of their spirituality...(para 3)

...There is a fundamental disconnect between the Aboriginal view of justice and the system that I am part of...(para 4).

recognizing the  
experiences of  
Indigenous  
people

- ▶ Justice Langston went on to recognize the uniqueness of Indigenous people within the context of a justice system which has “over run Indigenous people, Indigenous communities, Indigenous families, Indigenous culture and Indigenous spirituality”
- ▶ The recognition offered by Justice Langston is significant for three reasons: 1) it acknowledges the flaws inherent within our legal processes 2) it validates the harm the justice system does to Indigenous people; and 3) it offers an opportunity to do better

why is  
recognition so  
important?

- ▶ Justice Langston offered his heartfelt respectful recognition of the injustices inherent in the system he is a part of - in an apologetic and courageous manner but he only did so at the end of the matter and at the end of his career
- ▶ Why is it necessary to offer recognition that the law and the justice system has been used as a colonial tool when it comes to Indigenous people - from the start of a process – early in your career?

too little, too  
late or better  
late than  
never?

- ▶ Peter Levine\*, renowned psychologist and expert in trauma and somatic experience, cites that there is yet to be a way to accurately define trauma however he adds that most psychologists define trauma by an **actual or perceived** serious life altering or life threatening incident or traumatic event such as a slip and fall, illness, rape, abduction or a drive-by shooting which result in a variety of traumatic symptoms.

\*Levine, Peter. *Waking the Tiger: Healing Trauma*, Berkeley: North Atlantic Books 1997

what is  
trauma?

- ▶ Childhood trauma can affect different parts of the brain. This helps explain many of the challenges survivors experience.
- ▶ Reduced activity in Broca's area (this is the area for speech). This can make it difficult to talk about trauma and describe it with detail (Hull, 2002). This is additional to trauma which is pre-verbal.
- ▶ The hippocampus becomes smaller and its structure is interrupted (Wilson et al., 2011; McCrory et al, 2010). This can affect attention, learning and memory (Hedges and Woon, 2011; Pechtel and Pizzagalli, 2011).
- ▶ The corpus colosum which connects the left and right sides of the brain, is reduced. This prevents the two sides of the brain working in a coordinated way (Wilson et al., 2011)
- ▶ Changes to amygdala function (Wilson et al., 2011; Pechtel and Pizzagalli, 2011). This can make a person more likely to react to triggers, especially emotional ones. People can experience emotional extremes and struggle to regulate their emotions.
- ▶ Reduced activity in different parts of the cortex- frontal lobes (McCrory et al, 2012). This can mean a survival response/s is triggered in absence of danger (Ali, et al., 2011).
- ▶ Changes in 'reward pathways'. This can mean that survivors anticipate less pleasure from different activities, and may appear less motivated (Pechtel and Pizzagalli, 2011).

## trauma & the brain

- ▶ There are a variety of definitions for “trauma informed” depending on who you look to
- ▶ Put simply, being trauma-informed means that you have learned about trauma and can recognize it when it presents. You are knowledgeable about its prevalence among your client group or their community. And, you are trained to engage in a manner that minimizes re-traumatizing your client
- ▶ For example, Justice Langston stated that Indigenous people are entitled to a sense of dignity when they come into our courtrooms: this acknowledgement is trauma-informed
- ▶ Why? b/c the laws and policies created by Canada served to strip away Indigenous humanity – lawyers and judges have a duty to bring that back

what does it  
mean to be  
trauma  
informed?

- ▶ Committing to a trauma-informed practice when serving Indigenous people and Indigenous communities requires:

a current education on the history of Indian residential schools and an awareness of intergenerational trauma on Indigenous communities, families & individuals

If you work in a specific territory, LEARN the history and challenges of the local Indigenous people (we are not all the same); and

Be willing to adapt to changing ways how you engage, how you lead, how you listen and how you share time and space with clients, witnesses or respondents

- ▶ Accommodation of Indigenous trauma demands an acknowledgement, sometimes an apology and at all times, a willingness to follow your client's lead

trauma &  
Indigenous  
communities

- ▶ Cultural humility has been defined as “a process of self-reflection and discovery in order to build honest and trustworthy relationships.” At its essence, cultural humility is developed by letting go of assumptions about a person based on their culture and creating space for learning who they are as a person
- ▶ The distinction between cultural humility and cultural competence is subtle yet significant
- ▶ Cultural competence addresses the ability to effectively work with and across different groups of people and positions you as an expert of another’s culture. Rather than an endpoint, cultural humility is an **ongoing process** recognizing that the person in front of you is the expert, not the textbook.

cultural  
competence  
v.  
cultural  
humility

Intergenerational trauma shows itself in various forms:

- an inability to parent (child welfare system);
- an inability to problem solve (educational system);
- an inability to cope with emotional and mental disturbance (addictions/self-harm);
- an inability to form healthy relationships (intimate partner violence);
- an inability to make good decisions (criminal justice system);
- and an inability to love which fuels it all while generating crisis and chaos.

Intergenerational  
trauma

- ▶ you may see who we might become if we are denied the opportunity to become providers or parents
- ▶ you may see some victims/survivors become perpetrators
- ▶ you may see that we might want to protect perpetrators
- ▶ you may see that we might hurt ourselves
- ▶ you may see rage, shame and pain which stems from loss

how lawyers see  
intergenerational  
trauma in client  
interviews & in the  
courtroom

- ▶ Respecting the lived experience of Indigenous people requires education, empathy and an openness to listen to what is being said while paying attention to what you're being shown
  
- ▶ Being trauma informed requires:
  - A. understanding the effects of traumatic experiences on the brain and body
  - B. recognition of traumatic symptoms when they surface
  - C. allowing the traumatized to participate in a manner which feels safe, and
  - D. flexibility in your relationship to time, space and control over the process

becoming a  
trauma  
informed  
lawyer begins  
with respect

- ▶ trauma in your client can present as: tears, disclosure, anger, anxiety, denial, depression, avoidance, amnesia, mumbling or other disassociative responses
- ▶ be prepared to respond in a way that is calm, respectful, patient, firm and focused (this means you need to be flexible)
- ▶ be adaptable in time, tone & body language
- ▶ be willing to take up less space and to release control over the space

prepare your  
ego

- ▶ consider the needs of the client when they come to see you – what are they really hoping for? what do they want v. what do they need?
- ▶ have fidget spinners, stress balls, pens and paper on the table to help keep clients from disassociating – maybe art on the walls
- ▶ be prepared to offer water, breaks as they call them, and their preferred seating arrangement
- ▶ be clear about the limitations of your role and how much time you have for the interview
- ▶ if you are taking notes, explain why and offer a chance to have the client review them

prepare your  
space

- Lack of self-awareness
- Lack of cultural humility
- Lack of flexibility
- Inability or unwillingness to be relational (ego)
- Failing to check your bias
- Impatience
- Your own trauma/vicarious trauma

behaviours  
that can  
undermine a TI  
approach

Vicarious or secondary trauma is not “burnout”  
– burnout can be remedied with a vacation  
(distinguish the two)

VT is also known as compassion fatigue

Vicarious trauma is a preoccupation with the story or history of your client followed by numbness, hyperarousal or a plethora of other psychological symptoms which negatively impact your personal and professional relationships

VT can carry a cumulative effect

what is  
vicarious  
trauma?

Lawyers who have a personal history of trauma

Lawyers who are repeatedly exposed to detailed accounts of sexual and physical assault or witness physical injury

Lawyers who lack organizational support

some risk  
factors for  
vicarious  
trauma

# Vicarious trauma (self assessment)



Before working with traumatized clients make sure you assess what your triggers or experiences are with the subject matter (if you may be triggered, consider cancelling the meeting)



If you have unresolved trauma from your own childhood and still intend to advocate then ensure you have a solid support system including a therapist available to you



be honest with yourself about how you cope when triggered, traumatized or overwhelmed – make a plan



Be confident in est. your own boundaries and in saying you cannot continue or need a break (not just in your client meeting but maybe in your caseload as well)

Keep clear boundaries w/your client (time, space and focus of discussion) as limiting exposure diminishes your risk and establishes a healthy lawyer/client relationship

Your client should not be trying to take care of you and your needs

Communicate your role as advocate and its limitations – repeat if necessary

You may also need to remind yourself that you are not a therapist or crisis counsellor (we tend to want to be everything to everyone)

strategies to  
safeguard  
against  
vicarious  
trauma

Immediately after exposure to a traumatic story or evidence, there are several things you should consider doing:

- wash your hands in super cold water
- debrief with your colleague, supervisor or pet or the forest
- take a brisk walk alone
- give yourself at least 5 minutes to intentionally release what was just presented to you
- remember to distinguish your experience from your client's experience (you v. them)

Above all else, don't let the traumas of others follow you home. Should you do so, it will later creep up as anxiety, depression, addictions, etc.

strategies to  
safeguard  
against  
vicarious  
trauma cont'd

The concept of vicarious resilience has been developed by psychotherapists to address the transformation that occurs in clinicians who are regularly exposed to the trauma of others.

Vicarious resilience recognizes that the ability to learn how to overcome adversity can be transferred to the helping professional simply by witnessing resilience.

Vicarious resilience builds on the concept of resiliency in the face of severe trauma and other adversities, such that survivors of trauma are able to survive through strategies of coping and by relying on successful adaptive processes.

## vicarious resilience



Leonard Sumner  
Anishinaabe Artist

“I Know You’re  
Sorry”  
Leonard  
Sumner

“this nation will force reconciliation down the throats of our survivors and the people its displacing” – Leonard Sumner

Part of the IRSSA, the TRC created a historical records of the experiences of survivors by traveling across Canada and collecting survivor’s stories. The result was a large report containing 94 Calls to Action directed at Canadians and the provincial, territorial and federal governments.

“reconciliation” became a dirty word when the responsibility for reconciliation was offloaded onto the backs of Indigenous people.

a note on  
reconciliation

We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in **intercultural competency**, conflict resolution, human rights, and anti-racism.

Intercultural competency demands an education in direct and intergenerational trauma as a consequence of Indian residential schools and an extension of this education should include training on to become trauma-informed lawyers

Call to Action #28 is an opportunity for law firms who article or summer law students to expose students to a first-hand education on the legacy of residential schools, the Indian Act, the Scoop, the Child Welfare System and the criminal justice system

TRC

call to action  
28

- ▶ our systems have the potential to (and have been known to) traumatize those who are already experiencing trauma. We have an obligation to do no harm when delivering justice or legal services.
- ▶ Indigenous people have suffered and continue to suffer as a result of Canadian laws and its systems, the TRC's calls to action (and now the MMIWG's Calls to Justice) demand that we do better.
- ▶ reconciliation is your responsibility. The relationship between Indigenous people and the Canadian legal system you represent is broken. How will you repair it?
- ▶ a trauma-informed practice not only holds the potential to achieve reconciliation within the justice system but it is a necessary pathway to justice as healing

why should  
lawyers  
become  
trauma-  
informed?

- ▶ Thanks to the generosity of a BC Law Foundation grant, a small working group of lawyers and law students are developing a trauma informed toolkit which will serve as an educational resource for law schools, law societies, law firms and the judiciary
- ▶ The toolkit will teach you about trauma and provide the foundational principles to help you become a trauma-informed lawyer
- ▶ It will help you to recognize vicarious trauma in yourself and others
- ▶ for professional development programmers, it will provide a pathway to including trauma-informed curriculum and training in your educational courses

the creation of  
a trauma-  
informed toolkit  
for you

Myrna McCallum  
Miyo Pimatisiwin Legal Services  
#4- 1500 Railway Street  
North Vancouver, BC V7J 1B5

c: 604-828-5503

e: [myrna@miyopimatisiwin.ca](mailto:myrna@miyopimatisiwin.ca)

w: [traumainformedlegal.ca](http://traumainformedlegal.ca)

Ekosi / Thanks!

## 4. Resources and Services

FREE online mediation:  
MyLawBC's Family  
Resolution Centre

[MyLawBC.com](http://MyLawBC.com)





My problem. My solution.

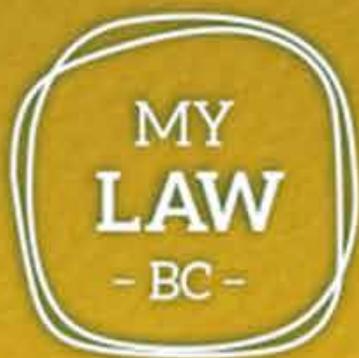
RESOLUTION TOOLS

Dialogue Tool

Mediation Tool

**Click a pathway to get started.**

Pathways help you find solutions to your legal problem.



My problem. My solution.

# Dialogue Tool

Work together to make an agreement

**Select an option below.**

Make a plan. Review your situation. Work on your agreement.

## The Dialogue Tool

- Online tool where separating couples can make fair and lasting separation agreements
- Platform for online negotiation
- Only appropriate for people who could get along well enough to work together

## What is the Family Resolution Centre?

- Platform for creating a parenting plan that is in the best interests of the children
- Parents can work together to negotiate a plan
- Introduces mediation to help those who find themselves at an impasse

## Free online mediation

- Uses the Family Resolution Centre platform
- Up to 5 hours of free mediation services
- Mediators are qualified under the Family Law Act

## What are parenting plans?

- Outline how a separating couple will raise their children together
  - Parenting time
  - How important decisions are made
  - Who gets the kids on what holidays
- Can be turned into legal agreements

## Why make the Family Resolution Centre?

- Parenting issues are some of the hardest to resolve
- Help people who can't afford these services
- Fills gaps in existing legal aid services
- Online lets us reach underserved communities
- Reduce stress for users

## Who can use the Family Resolution Centre?

- Only deals with parenting issues
  - Doesn't include child support
- No financial eligibility requirements
- Screening for appropriateness for online mediation
  - No cases with family violence

# How to find the Family Resolution Centre

The screenshot shows the MyLawBC website's Family Mediation section. At the top, there is a navigation bar with three options: 'RESOLUTION TOOLS' (with a speech bubble icon), 'Dialogue Tool', and 'Mediation Tool' (highlighted with a red box). The main header features the 'MY LAW - BC -' logo, the text 'My problem. My solution.', and the title 'Family Mediation' with the subtitle 'Work on your parenting plan'. Below this is a dark purple banner with the text 'Select an option below.' and 'Work with a free professional mediator if you need help.' The page is divided into two main columns. The left column is titled 'Get started' and contains a paragraph about creating an account or logging in, followed by a circular image of a child and the question 'Can the Family Resolution Centre help?'. The right column is titled 'Make a parenting plan' and contains a paragraph about working with a mediator, followed by a map icon and the heading 'Create an account' with a 'Register' button and a 'Terms of use' link.

RESOLUTION TOOLS Dialogue Tool **Mediation Tool**

**MY LAW**  
- BC -

My problem. My solution.

## Family Mediation

Work on your parenting plan

**Select an option below.**  
Work with a free professional mediator if you need help.

### Get started

Is this your first time here? Before you create an account or log in, you can get started by answering some questions about your situation to see if MyLawBC's Family Resolution Centre can help you.



#### Can the Family Resolution Centre help?

Find out if we can help you and the other parent make a parenting plan.

### Make a parenting plan

Use the Family Resolution Centre to work with a free professional mediator to make a parenting plan.



#### Create an account

Not yet registered? Create an account first.

[Register](#) [Terms of use](#)

#### Returning users



## Welcome to the MyLawBC Family Resolution Centre

[Log In](#)   [Register](#)



Amy Training



Natasha Neutral



Joshua Training

### Your information



Gender \*

- Female
- Male
- Other
- Prefer not to say

Date of Birth \*

MM/DD/YYYY

Occupation

Income Level \*

Go to



Previous

Next

## What's next?



**NOW**



Answer some questions to participate in an online parenting plan session.

2



Propose and review a parenting plan.

3



Discuss the available options and solutions.

4



Optional: A mediator is assigned to help you create a parenting plan.

5



Create a parenting plan that's in the best interests of your child or children.

Click **Next** to answer some questions about your situation.

Go to

Select



Previous

Next

### Orders or agreements

Are you and the other parent co

- Yes
- No

Are there any family court orde

- Yes
- No

Please upload a copy or p

Choose File

Maximum file size: 50MB , Allowed file types:  
PDF,DOC,XLS,DOCX,XLSX,HTML,WAV,MP3,PNG,JPG,TIF,WMA,WPL,JPEG,GIF,AVI,WMV,MOV,MP4,TXT

Go to

Previous

Next

Open

« MarComm » screenshots for FRC presentation Ppt » demo files

Search demo files

Organize New folder

Name	Date modified	Type	Size
Court Order.PNG	29/07/2019 11:57 ...	PNG File	3,30
Drivers License-Amy.PNG	29/07/2019 11:57 ...	PNG File	3,30
Drivers License-Joshua.PNG	29/07/2019 11:57 ...	PNG File	3,30

File name: Court Order.PNG

All files (\*)

Open Cancel



Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files (2)

Summary

Timeline (1)

**Parenting plan progress** ✕

To build the parenting plan, you and Joshua must make decisions in the following 7 areas:

Next



Decision Making



Parenting/Contact Time



Statutory Holidays and Special Days



School Breaks



Vacation



Transportation



Additional Terms

Go to  ? Previous Next

Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator



Activity/Chat

Files (2)

Summary

Timeline (1)

### Decision making: Overview



#### Decision making

Usually, parents are both guardians of their child or children and share parental responsibilities and parenting time. If the child's or children's parents lived together, then both parents have guardianship of the child or children. The parents are both guardians and share parental responsibilities. Together, the parents are responsible for providing food, shelter, and clothing and for making decisions about how the child or children will be raised. After separation, each parent remains a guardian unless the parents agree or the court orders that one parent is not a guardian of the child or children. A parent's responsibility toward their child or children doesn't change only because the parents have separated.

If one of the parents has never lived with the child or children, then the other parent is not a guardian unless both parents agree that they are the guardian or the parent regularly cares for their child or children.

Click **Next** to review and select from the options for decision making.

Go to

Select



Previous

Next

#### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator



Amy Training - Joshua Training

Session #19FAM00052

Activity/Chat

Files (2)

Summary

Timeline (1)

Decision making: Choose an option

Parenting responsibilities include making decisions about education, culture, religion, medical treatment, and sharing and receiving information.

There is a presumption that the parenting responsibilities will be shared equally unless stated otherwise. As well as the decision-making arrangement you choose, your parenting plan will state the following about decisions:

Day-to-day decisions

During their parenting time, that guardian (on-duty parent) can make day-to-day decisions about the child or children, including decisions about things like homework, bedtime, and chores.

Emergency decisions

During their parenting time, that guardian (on-duty parent) can make day-to-day decisions about the child or children, including decisions about things like homework, bedtime, and chores.

Who will make decisions about the children? \*

- Amy and Joshua are both the guardians of the child or children and will share or split decision making. Amy and Joshua will share parenting as set out in this parenting plan.
- Amy and Joshua are both the guardians of the child or children. Amy will make all the decisions and Joshua will be fully consulted. Amy and Joshua will share parenting as set out in this parenting plan.

Go to



Previous

Next

Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files (2)

Summary

Timeline (1)

## Parenting plan progress



Next



Decision Making



Parenting/Contact Time



Statutory Holidays and Special Days



School Breaks



Vacation



Transportation



Additional Terms



Go to

Select



Previous

Next

### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files (2)

Summary

Timeline (1)

## Review your proposed plan



Your proposed parenting plan is ready for review and acceptance.

# Parenting Plan

This parenting plan commences as soon as both parties have signed.

This parenting plan is dated: 07/29/2019

**BETWEEN:**

Training, Amy, "Amy"

**AND:**

Training, Joshua, "Joshua"

We are the parents of the following child or children:

- Braxton Training, born on October 31, 2014

Our child or children

Go to

Select



Previous

Next

### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator

COMP



(19FAM00012) MyLawBC Family: Review a proposed parentin...  
no-reply@uat-mylawbcfam2.modria.com

2:15 PM

## (19FAM00012) MyLawBC Family: Review a proposed parenting plan



Subject: (19FAM00052) MyLawBC Family Resolution Centre: Review a proposed parenting plan  
From: no-reply@uat-mylawbcfam2.modria.com  
Received: Mon Jul 29 2019 14:59:04 GMT-0700 (Pacific Daylight Time)  
Sending IP: 54.240.8.93



MyLawBC 400 - 110 Burrard Street, Vancouver, BC V6C 1A5 phone: 604.601.8000

Hello Joshua,

### Notification

- We're pleased to invite you to our online resolution process to help you and Amy make a parenting plan for your child or children.
- Amy already proposed a parenting plan for you to review.
- You can work on your parenting plan online, wherever you feel most comfortable, at any time.
- Once you've proposed a parenting plan, if you and Amy are unable to reach an agreement, you can ask a mediator to help you.
- The professional mediator is fully qualified under the BC Family Law Act. The mediator is a neutral third party who can help you online. There's no cost to you.

### Next Steps

- Review and respond to Amy's proposal within 7 days: by Monday, August 05, 2019
- If you don't complete your proposed parenting plan within 7 days, your parenting plan session will be closed.
- Once you have completed and sent your proposal, you and Amy will have until Friday, September 27, 2019 to reach an agreement

Click this link to log in and access your parenting plan session: [19FAM00052](#)

If clicking the link above doesn't work, copy and paste the URL below in a browser window instead.

<https://uat-mylawbcfam2.modria.com/#casedetails/52?token=MGJkZWRmNjgtMWYyYS00MTlmLWl5YTktNjE0ZGM0Y2I3NWJmMTU2NDQzNzU0MzgxOQ==>

Sincerely,

MyLawBC team

This is an automatically generated email, please don't reply. MyLawBC is developed by the Legal Services Society.



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files

Summary

Timeline (2)

## Parenting plan progress



To build the parenting plan, you and Amy must make decisions in the following 7 areas:

Next



Decision Making



Parenting/Contact Time



Statutory Holidays and Special Days



School Breaks



Vacation



Transportation



Additional Terms

Go to

Select



Previous

Next

### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files

Summary

Timeline (2)

## Decision making: Review and respond to proposal



**Amy's Proposal**

Amy Training - Joshua Training  
Session #19FAM00052

Parenting/contact time: Review and respond to proposal

**Co-Parent's Proposal**

The child or children live with the parent following a two-week rotation as set out below:

- **Segment 1** Amy from Sunday at 7:00 PM to Wednesday at 6:00 PM
- **Segment 2** Joshua from Wednesday at 7:00 PM to Sunday at 7:00 PM
- **Segment 3** Amy from Sunday at 7:00 PM to Thursday at 6:00 PM
- **Segment 4** Joshua from Thursday at 7:00 PM to Sunday at 6:00 PM

Do you want to use this parenting/contact time arrangement in the parenting plan? \*

Yes

No / I want to propose a different parenting/contact time arrangement

Previous Next

### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator

- giving, refusing, or withdrawing consent for the child or children, if consent is required (for example, for a school trip);

Go to



Previous

Next



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files

Summary

Timeline (2)

### Parenting plan progress

**Next**









Decision Making

Parenting/Contact Time

Statutory Holidays and Special Days

School Breaks

Vacation

Transportation

Additional Terms

Previous

Next

#### Other Actions

End Parenting Plan Session

Helpful Resources

Request Help from a Mediator





### Amy Training - Joshua Training

| Session #19FAM00052 |

New mail from no-reply@uat-mylawb...  
 mail.protonmail.com  
 MyLawBC Family Resolution Center: New...

#### Proposed parenting plan

Joshua proposed a parenting plan. Amy must review and respond to the proposal.

#### To Continue:

[Click here](#)

by 09/27/2019

#### Other Actions

[End Parenting Plan Session](#)

[Helpful Resources](#)

[Request Help from a Mediator](#)

- Files (2)
- Summary
- Timeline (3)

#### Activity/Chat

July 29, 2019

**Amy Training** added a file [Court Order.PNG](#) 02:31 PM

**Amy Training** added a file [Drivers License-Amy.PNG](#) 02:31 PM

07/29/2019 02:31:31 PM **Amy Training** has completed **Filing a New Session** - Amy created an online parenting plan session. Amy must propose a parenting plan. 02:31 PM

07/29/2019 02:59:02 PM **Amy Training** has completed **Action** - Amy proposed a parenting plan. Joshua must review and respond to the parenting plan. 02:59 PM

07/29/2019 03:39:53 PM **Joshua Training** has completed **Action** - Joshua proposed a parenting plan. Amy must review and respond to the proposal. 03:39 PM

**Joshua Training** (Parent B)

Hey Ames we agree on so much but really you can't be the one calling all the shots on making decisions for Braxton, I mean after all sometimes he'll need a man's view right? 03:42 PM

Post a message

Press 'Enter' to send messages



### Amy Training - Joshua Training

| Session #19FAM00052 |

New mail from no-reply@uat-mylawb...  
 mail.protonmail.com  
 MyLawBC Family Resolution Center: New...



Assignment pending after party request

To Continue:

[Click here](#)

by 08/01/2019

Other Actions

Helpful Resources

Files (3)

Summary

Timeline (4)

One of the parents requested a mediator's help. A mediator is being assigned to help the parents.

Activity/Chat	Amy / Mediator	Joshua / Mediator
07/29/2019 02:59:02 PM <b>Amy Training</b> has completed <b>Action</b> - Amy proposed a parenting plan. Joshua must review and respond to the parenting plan.		02:59 PM
07/29/2019 03:39:53 PM <b>Joshua Training</b> has completed <b>Action</b> - Joshua proposed a parenting plan. Amy must review and respond to the proposal.		03:39 PM
<b>Joshua Training</b> added a file <a href="#">Drivers License-Joshua.PNG</a>		03:39 PM
<b>Joshua Training</b> (Parent B) Hey Ames we agree on so much but really you can't be the one calling all the shots on making decisions for Braxton, I mean after all sometimes he'll need a man's view right?		03:42 PM
<b>Amy Training</b> (Parent A) Uh, I think we should get some help here		04:08 PM
07/29/2019 04:09:15 PM <b>Amy Training</b> has completed <b>Request Help from a Mediator</b> - One of the parents requested a mediator's help. A mediator is being assigned to help the parents.		04:09 PM

 Post a message

Press 'Enter' to send messages



# Amy Training - Joshua Training

Session #19FAM00052

Activity/Chat

Files (3)

Summary

Timeline (4)

## Summary

### Orders or agreements

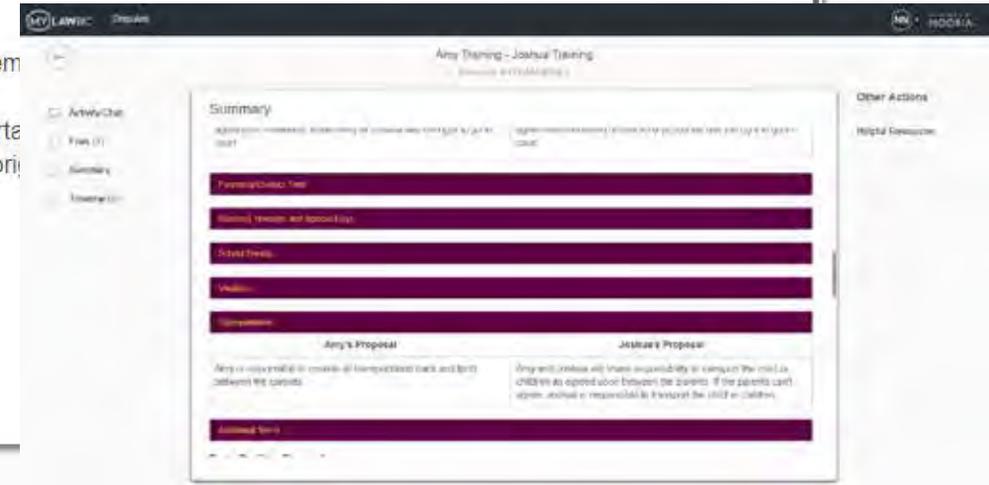
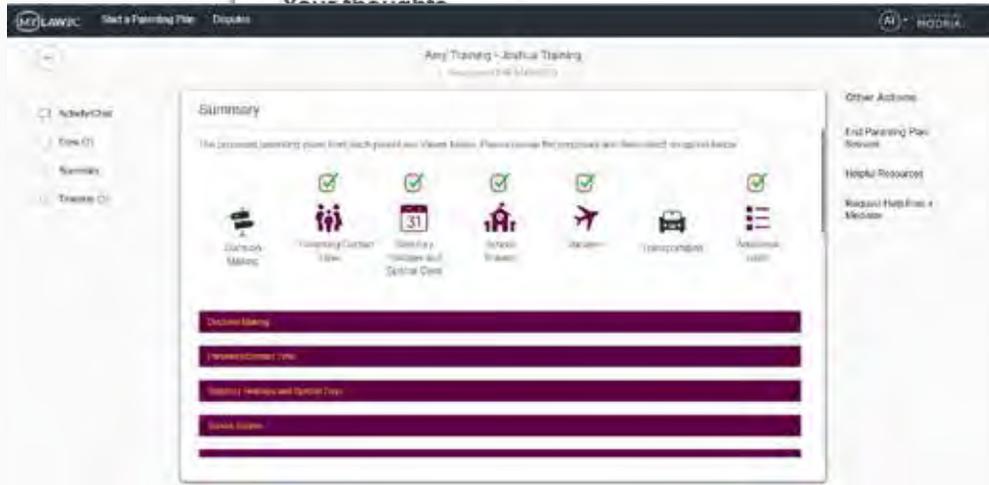
- Are you and the other parent currently involved or have you been involved in Family Court Proceedings?: Yes
- Are there any family court orders or agreements in place regarding your child or children?: Yes

### Your safety

- Are there any protection orders (peace bond, family law protection order, or probation order) in place or have there been in the past?: No
- Has the other parent ever made you feel threatened or afraid?: No
- Do you believe your safety or your child or children's safety is at risk?: No
- Have the police been involved in your relationship in the past?: Yes
- Select any of the following items that are a factor in your situation:
  - Alcohol or drugs

Other Actions

Helpful Resources



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ntlen, ori



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files (3)

Summary

Timeline (5)

#### Mediation in progress

The mediator is assigned to help the parents. Mediation is now in progress.

#### To Continue:

[Click here](#)

by 08/28/2019

#### Other Actions

Helpful Resources

Activity/Chat

Amy / Mediator

Joshua / Mediator

Hello I see that you have a difference of opinion on two items. Amy, are you willing to reconsider about Decision making?

09:06 AM



**Amy Training** (Parent A)

Maybe, but no way on the driving stuff.

09:07 AM



**Joshua Training** (Parent B)

Hey I might be able to deal with that if you'll be willing to share decisions more.

09:08 AM



Looks like we're making some progress! Thank you for your willingness, Amy.

09:09 AM

Josh - let's not discuss the transportation issue yet, OK?

09:09 AM



**Joshua Training** (Parent B)

Sure, that makes sense

09:10 AM



Great, now let's dive into this issue for a moment.

09:10 AM



Press 'Enter' to send messages



### Amy Training - Joshua Training

| Session #19FAM00052 |

Activity/Chat

Files (3)

Summary

Timeline (5)

## Parenting plan progress



Other Actions

Helpful Resources

Next



Decision Making



Parenting/Contact Time



Statutory Holidays and Special Days



School Breaks



Vacation



Transportation



Additional Terms



Go to

Select



Previous

Next



# Amy Training - Joshua Training

Session #19FAM00052

Activity/Chat

Files (2)

Summary

Timeline (6)

## Review your proposed plan



Other Actions

Helpful Resources

The mediator drafted a parenting plan for you and Joshua to review. Your proposed parenting plan is ready for review and acceptance.

# Parenting Plan

This parenting plan commences as soon as both parties have signed.

### BETWEEN:

Training, Amy, "Amy"

### AND:

Training, Joshua, "Joshua"

We are the parents of the following child or children:

- Braxton Training, born on October 31, 2014

### Our child or children

making a parenting plan to help us provide a child or children's ages and needs.



New mail from no-reply@at-my.lawbc.com  
MyLawBC Family Resolution Center: New...

Review your proposed plan

**Acknowledgements**

I, the undersigned parent, have read and understand the contents of the parenting plan, and I have acknowledged that I:

- have read the entire parenting plan carefully;
- have fully understood the contents of the parenting plan;
- intend that the parenting plan is in the best interests of the child(ren) involved;
- All Agreements in this parenting plan, including but not limited to financial support, are being made for the child(ren) involved;
- understand that the parenting plan, including but not limited to financial support, is intended to be enforceable under the laws of the state of Washington;
- an agreement that is not in compliance with the laws of the state of Washington is hereby rejected.

I do hereby accept the parenting plan and its terms and intend to abide by it. My signature is being provided to the court and the other parent.

Does this information look correct?

Yes No

Previous Next

New mail from no-reply@at-my.lawbc.com  
MyLawBC Family Resolution Center: New...

Review your proposed plan

**Acknowledgements**

I, the undersigned parent, have read and understand the contents of the parenting plan, and I have acknowledged that I:

- have read the entire parenting plan carefully;
- have fully understood the contents of the parenting plan;
- intend that the parenting plan is in the best interests of the child(ren) involved;
- All Agreements in this parenting plan, including but not limited to financial support, are being made for the child(ren) involved;
- understand that the parenting plan, including but not limited to financial support, is intended to be enforceable under the laws of the state of Washington;
- an agreement that is not in compliance with the laws of the state of Washington is hereby rejected.

I do hereby accept the parenting plan and its terms and intend to abide by it. My signature is being provided to the court and the other parent.

Does this information look correct?

Yes No

Previous Next

# Moving forward

- Expanding into new areas
- Looking for more users

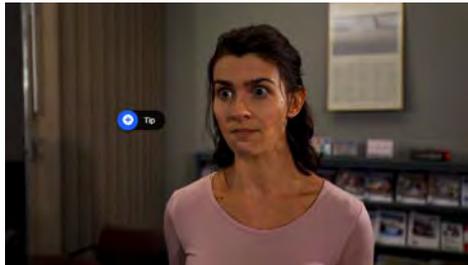
# Sneak peek: New interactive scripting exercise about first appearances in family court (lunch session)



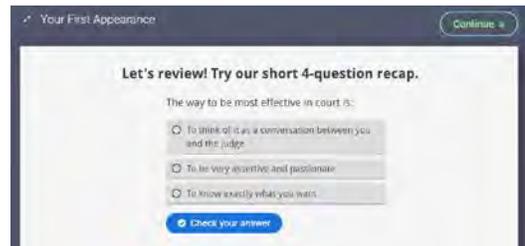
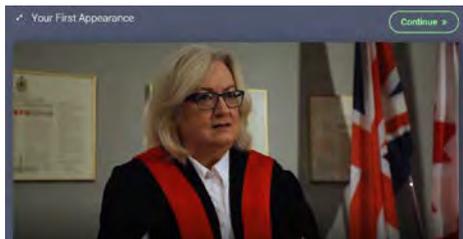
At lunch on Wednesday, Judy Clarke, LSS technical writer/editor, presented a prototype of interactive materials LSS would like to start creating for the Family Law in BC website (pending funding) and asked for everyone's feedback.

The exercise included a couple of videos, some tips, and a multiple choice quiz to test knowledge after watching the video. The scenarios both show the same woman going into a first

appearance; first demonstrating how not to behave, with clickable tips on screen to provide guidance on what went wrong, then showing what to say to be successful.



The videos were preceded and followed by tips and a quiz.



At the end of the exercise, there were links to further resources, including a fill-in-the-blanks script for people going into a first appearance. We got lots of positive feedback forms after the session, but are always looking for your thoughts on this new approach. If you didn't get a chance to fill out the form that day but would like to weigh in, please email [winnifred.assmann@lss.bc.ca](mailto:winnifred.assmann@lss.bc.ca).

### Fill-in-the-blanks-script

Your case is called ("Last name versus last name"). The judge won't speak, stand, bow, and begin.

1. → Your honour,
2. → My name is \_\_\_\_\_ (spell your last name).

If children are involved:

3. → I am: \_\_\_\_\_ (the biological mother/father/aunt, etc.) →  
of the child(ren) \_\_\_\_\_ (names and ages).
4. → The child(ren) live \_\_\_\_\_ (with me/with the other person/ →  
all the time/half the time).
5. → The opposing party and I: \_\_\_\_\_ (were married/lived together) for \_\_\_\_\_ year(s).  
We separated \_\_\_\_\_ years ago.

# Working with LSS Intake

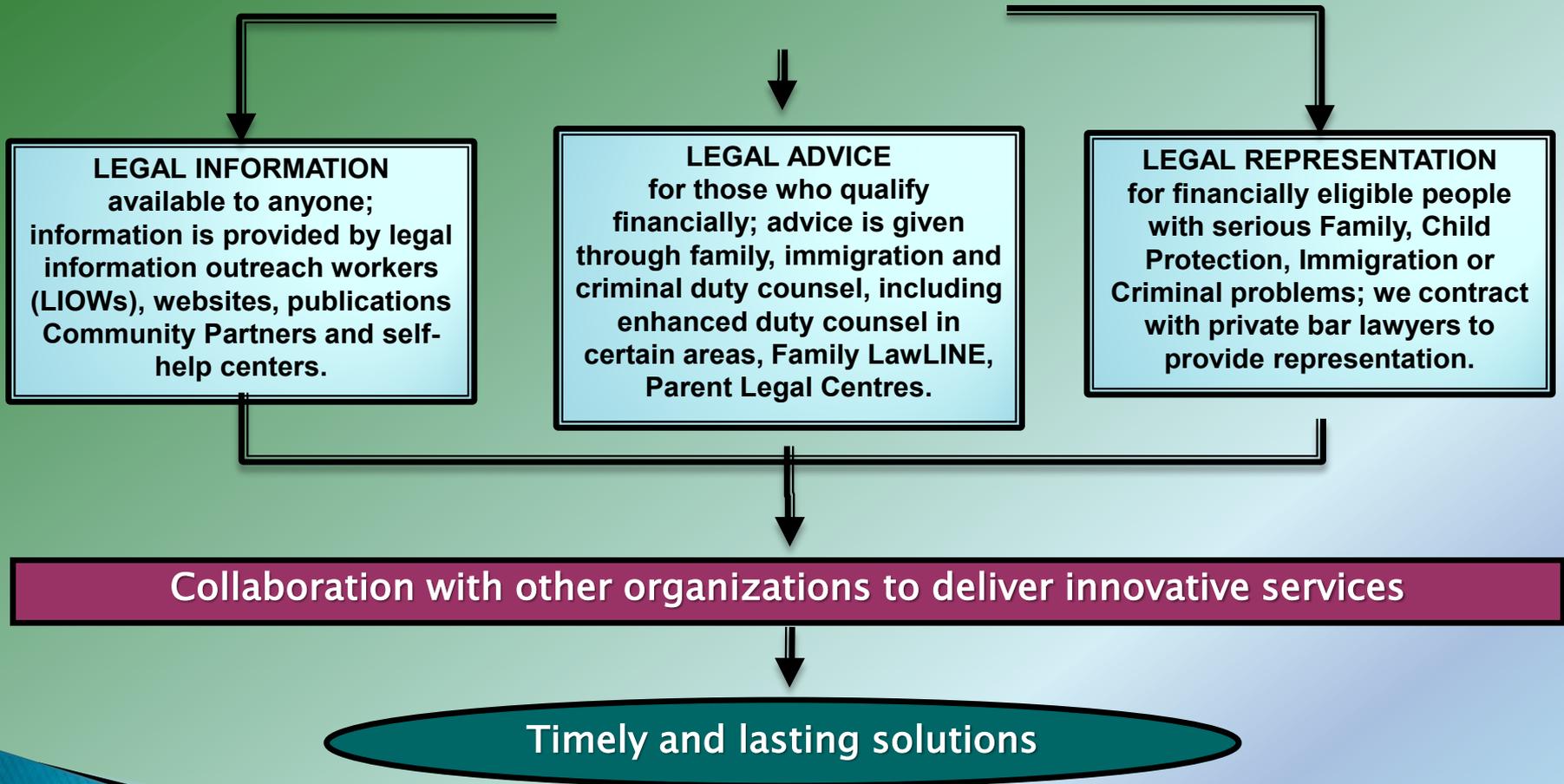


October 2019

Deneen, Provincial Supervisor, Legal Aid Applications

# Services Overview

## Legal Aid



# Community Partners

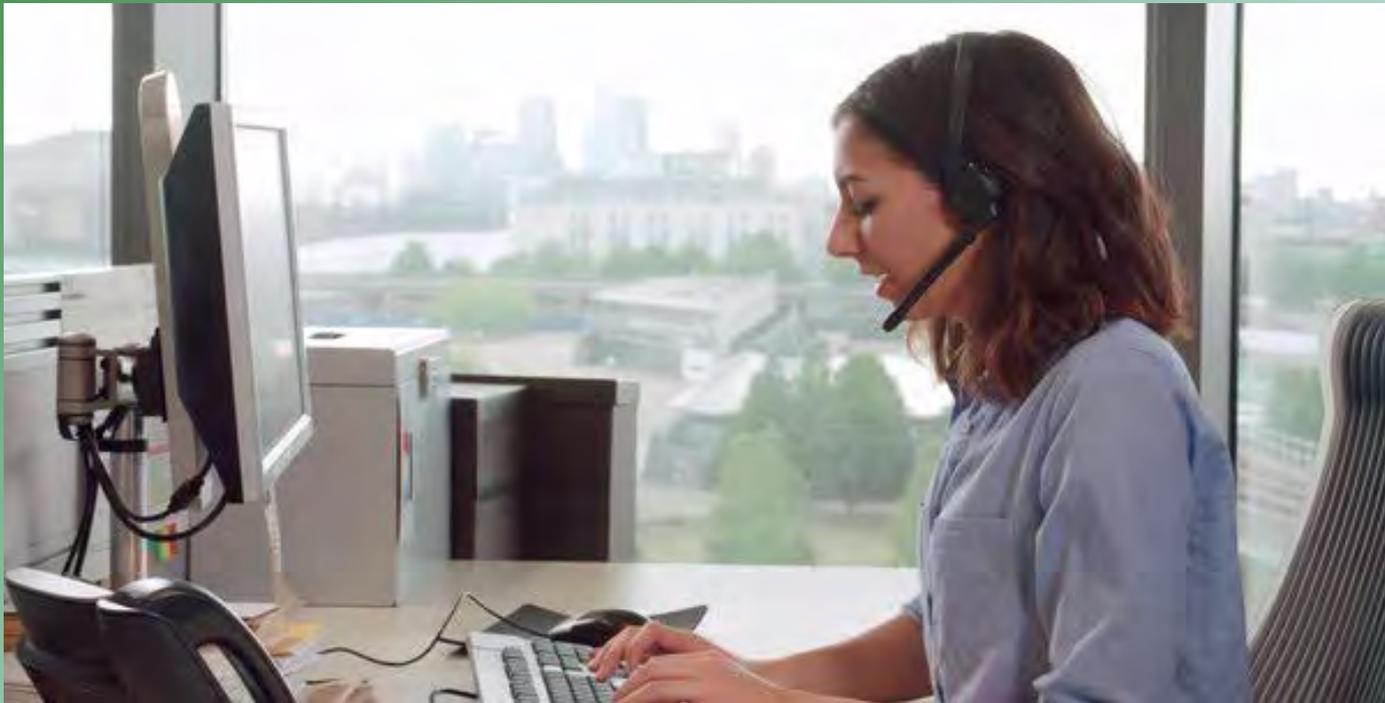
We have 25 Community partners providing services in 33 communities around the province. Clients can:

- get free legal information;
- call Legal Aid;
- find nearest Legal Aid office;
- get legal help online; and
- connect with people who can help.



# Legal Advice

## Family LawLINE



# Duty Counsel

Duty Counsel provides in person legal advice in the following areas of law:

- Immigration Law (if in detention)
- Family Law
- Criminal Law



# Parent Legal Centres and Expanded Criminal Duty Counsel

- We now have Parent Legal Centres (PLC's) in Campbell River, Duncan, Kamloops, Prince George, Smithers/Hazelton, Surrey, Terrace, Vancouver, Victoria, and Williams Lake.
- Expanded Criminal Duty Counsel (Out Of Custody – Port Coquitlam)



# PLC Locations and Geographical Areas the PLC's Cover

- ▶ *PLC's cover cases in the city they are located in, as well as other geographical locations*

<u>PLC</u>	<u>Geographical Location</u>
▶ Campbell River	Campbell River, Courtenay, Port Hardy
▶ Duncan	Duncan
▶ Kamloops	Kamloops, Merritt, Clearwater
▶ Prince George	Prince George, Quesnel, Vanderhoof, Fort St. James
▶ Smithers/Hazelton	Smithers, Hazelton, Houston, Burns Lake
▶ Surrey	Surrey
▶ Terrace	Terrace
▶ Vancouver	Vancouver
▶ Victoria	Victoria, Colwood
▶ Williams Lake	Williams Lake

# APPLYING FOR LEGAL AID

Call LSS Provincial Call Centre at 604-408-2172 in Greater Vancouver or 1-866-577-2525 (no charge)

Clients applying for immigration matters can call the LSS Immigration Line at 604-601-6076 or 1-888-601-6076 (no charge)



Come into one of our Legal Aid offices, their contact information is available on our website  
*[www.legalaid.bc.ca](http://www.legalaid.bc.ca)*

# Legal Aid Offices

There are 33 communities in BC where someone can apply for legal aid in person and get legal information. However, currently Cranbrook and Nelson are vacant.



# What Legal Problems Are Eligible For Coverage?

## *Criminal*

- Where charges are serious and there is a likelihood of jail.
- CERC's – Where there is no likelihood of jail, but the client is within our standard financial guidelines or within \$1,000 of our standard financial guidelines. Or there is a likelihood of jail but the client is over our standard financial guidelines but within \$1,000 of those guidelines.
- Exceptions to the “likelihood of jail” rule.



## *Family Law*

Serious family situations regarding parenting (guardianship, parenting arrangements or custody/access), protection orders, child support, and more, depending on the issues. And the issues need to be addressed immediately to ensure the safety of the children and/or the client.

We now also have Limited Representation Contracts that allow a client to deal with financial security issues such as property division, spousal support, and child support, if there are no other serious family issues.



## *CFCSA (Child Protection and Removal)*

Where the Ministry of Children and Family Development (MCFD) or a Designated Agency has removed a child(ren) or where there is a risk or **threat** of a child(ren) being removed. This could also include custody and/or access issues arising from a child in care.



*Reciprocals* – Where the client lives in one province and their Family or CFCSA matter is in another province.



*Immigration* – Where the client may wish to claim refugee status or where the client faces an immigration proceeding that may result in their removal from Canada.



# Financial Eligibility

## *Representation Income Chart*

Table of net household income

Household Size	Standard Cases	CFCSA and CERCs
1	\$1,630	\$2,630
2	\$2,280	\$3,280
3	\$2,920	\$3,920
4	\$3,570	\$4,570
5	\$4,220	\$5,220
6	\$4,870	\$5,870
7 or more	\$5,520	\$6,520

Effective May 15, 2019

# Financial Eligibility

## *Personal Property (All case types)*

### Household Size

### Exemption

1	\$2,000
2	\$4,000
3	\$4,500
4	\$5,000
5	\$5,500
6 or more	\$6,000

Effective April 1, 2019



# Financial Eligibility

## *LEGAL ADVICE GUIDELINES*

### Household Size Monthly Net Income

1 – 4	\$3,570
5	\$4,230
6	\$4,910
7 or more	\$5,550

▶ Effective April 1, 2019



# FINANCIAL DISCRETIONARY COVERAGE

## Legal Representation – Criminal, Family, Immigration, and Appeal Cases

- A file can be sent for a Discretionary Coverage Review if an applicant is over the financial eligibility guidelines on income by approximately \$100 – \$200 for Criminal (if a client has a Trial or Pre-Trial set and wouldn't qualify for a CERC), Immigration, and Appeal cases, or \$500 for Family cases, or on assets by \$500, and the matter is a serious and complex case and there is available budget.
- There is no Discretionary Coverage Reviews on CFCSA cases as they are already allowed an additional \$1,000 per month for income.



# Requesting A Review of A Denial

A client can request a review of a denial for legal aid

- This request must be in writing.
- The client should state why they disagree with the denial and explain why they believe they should get legal aid.
- The client should include any supporting documents.

Coverage and Financial Eligibility Reviews must be submitted within 30 days of the denial of legal aid to:

Provincial Supervisor  
Vancouver Regional Centre  
425 - 510 Burrard Street  
Vancouver, BC V6C 3A8  
Fax: 604-682-0787

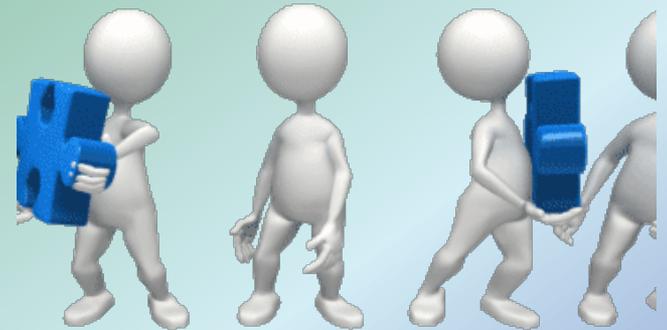
Email: [provincialsupervisors@lss.bc.ca](mailto:provincialsupervisors@lss.bc.ca)



# Working Together

You can help your clients:

- Understand the intake process
- Prepare for the interview
- Organize documentation
- Make sure they follow up on the status of their file and provide Intake staff with requested information



# **Presenter: Deneen**

Provincial Supervisor, Legal Aid Applications

Phone: 604-601-6217

Fax: 604-682-0787

E-Mail: [deneen.vancouver@lss.bc.ca](mailto:deneen.vancouver@lss.bc.ca)



# Overview of LSS Coverage Guidelines

## Criminal Coverage Guidelines

### General

To qualify for legal representation, an applicant must:

- ❖ be financially eligible, except for specified exceptions, and
- ❖ have a Criminal law problem covered by the criminal coverage guidelines.

An applicant is covered for Standard coverage if he or she:

- ❖ faces a Criminal proceeding,
- ❖ is charged with a Criminal offence, and
- ❖ if convicted, faces a risk of jail (includes house arrest).

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

### Additional grounds for coverage

Less serious summary offences may be covered for adult applicants in very limited circumstances.

An applicant who does not necessarily face a risk of jail may be covered for a Standard Contract if he or she:

- ❖ faces a loss of livelihood upon conviction,
- ❖ has a mental or physical disability, or
- ❖ faces immigration complications that may result in deportation.

### Criminal Early Resolution Contracts (CERC's)

Criminal Early Resolution Contracts (CERC's) provide non-trial resolution services, including summary advice and assistance to clients not eligible for a Standard Representation Contract. Criminal Early Resolution Contracts can be issued to any lawyer who takes criminal law contracts.

An applicant may be covered if they:

- have a criminal charge proceeding in Provincial or Supreme Court, and
- meet the expanded eligibility guidelines for a Criminal Early Resolution Contract, which are over the Standard Criminal guidelines by \$1000 on monthly income.

**Note: The applicant doesn't need to face a risk of jail upon conviction to be eligible for a Criminal Early Resolution Contract (CERC).**

## **Overview of LSS Coverage Guidelines**

A Criminal Early Resolution Contract:

- is a 90 day contract that focuses on resolution services but does not include going to trial,
- is eligible for travel authorization,
- is eligible for a change of counsel in limited circumstances. All change of counsel requests should be reviewed by a Provincial Supervisor.

An applicant **isn't** eligible for a Criminal Early Resolution Contract if:

- the applicant is a youth,
- the applicant is eligible for and has access to the Expanded Criminal Duty Counsel Program in Port Coquitlam Provincial Court (see **Expanded Criminal Duty Counsel - Port Coquitlam on Page 10**).
- the applicant is detained in custody after a bail hearing,
- the applicant has a trial date set,
- the applicant has an open Criminal Standard Representation Contract.

With a CERC contract, the lawyer will provide services to try to achieve early resolution of cases, such as:

- meeting with the client and reviewing particulars
- providing summary advice including procedural advice on self-represented trials
- determining if resolution should be pursued
- engaging with Crown to seek non-trial resolution
- appearing in court for disposition/resolution as appropriate
- if not suited for resolution, terminate service with direction to the client on next steps to self-represent.

Note: Criminal Early Resolution Contracts do not allow for representation at trials or preliminary hearings.

## **Aboriginal hunting and fishing rights**

An applicant is covered for a Standard Contract if:

- ❖ they are Aboriginal, and
- ❖ the alleged offence:
  - occurred in a geographic area the applicant claims is his or her traditional territory, or
  - involves a traditional right; or
  - occurred outside the applicant's traditional territory, but involves the exercise of an existing Aboriginal right extended to the individual by:
    - a traditional Aboriginal law or custom,
    - a band bylaw, or
    - Aboriginal government legislation.
- ❖ The applicant does not have to face a risk of jail if convicted.

## Overview of LSS Coverage Guidelines

***NOTE:*** If a client does not qualify financially for legal aid they may be able to go to court and make a “Rowbotham” application. Before a client can apply for a “Rowbotham” application the client must apply for legal aid. They must be refused by the legal aid intake worker, then they must ask, in writing, for that decision to be reviewed. If the review is also denied, the client will be sent a letter along with our booklet “If You Can’t Get Legal Aid for Your Criminal Trial”, which explains how to apply to the courts for a court appointed lawyer to assist them with their matter.

### Youths

Anyone under the age of 18 who is not a ward of the Ministry of Children and Family Development is covered for a Standard Contract for all Criminal Code and other charges under federal legislation (such as drug charges). They do not have to be financially eligible or meet LSS criminal coverage guidelines.

Youths under age 18 charged with Provincial offences, such as motor vehicle offences, offences under the Schools Act, etc., must be financially eligible and the case must meet criminal coverage guidelines.

### Over age 18, facing Youth Criminal Justice Act charges

Applicants over the age of 18 who face Youth Criminal Justice Act charges are covered until the end of the case.

### Exception

Youth who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

## Family coverage

### General

To qualify for legal aid representation, an applicant must:

- ❖ Be financially eligible, and
- ❖ have a Family law problem covered by the Family coverage guidelines:
  - need an initial, or a change to the current, guardianship or parenting arrangement order if there is a risk of harm or violence to the client or their child or children;
  - have guardianship/custody of a child/children who have been unlawfully held by the access parent/party;
  - have been permanently or repeatedly denied contact or parenting time with a child;
  - need a Family law protection order or other legal assistance to protect themselves or their children from harm or violence;

## Overview of LSS Coverage Guidelines

- need an order to prevent the other parent from permanently relocating their child or children out of the Province. The threat must be real and imminent, and involve a permanent change of residence;
- be a respondent in a maintenance enforcement committal proceeding; or
- ❖ be eligible for coverage provided through the exception review process, or
- ❖ have a financial security issue and be eligible for limited representation.

## Who is covered?

When the legal issue involves children, an applicant must be:

- ❖ a parent,
- ❖ a member of the children's immediate or extended family,
- ❖ a relative or individual who has lived with the children in a parental or custodial relationship, or
- ❖ a member of the community who has a cultural or traditional responsibility towards the children.

An applicant, with or without children, may be eligible for legal aid if their physical safety is at risk.

An applicant who's in jail may qualify for legal representation. Application would be sent for an exception review.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal aid representation.

## Exception

Youth who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

## Limited Representation Contracts

A client may be eligible for a Limited Representation Contract when they don't meet Family coverage guidelines for a full representation (Family Standard) contract. They do not necessarily face a risk of harm or violence and have some ability to self-represent. These contracts are intended to provide clients with the assistance necessary to effectively negotiate a settlement or represent themselves.

A Limited Representation Contract:

- focuses on financial security issues such as:
  - Child Support
  - Spousal Support
  - Division and/or preservation of family property
- offers 15 hours of general preparation time to prepare court applications, provide legal advice, mediation support, and/or legal research and analysis; prepare and review documents; negotiate settlements including separation agreements, but not appear in court except for case conferences (up to 3 hours, which is included in the 15 hours of general preparation time).

## Overview of LSS Coverage Guidelines

- is not eligible for travel authorization (the lawyer must be local or willing to provide services remotely).
- is are not eligible for Extended Family Services.

## CFCSA

### General

To qualify for legal representation, an applicant must:

- ❖ be financially eligible; and
- ❖ have a CFCSA problem covered by the CFCSA coverage guidelines.

An applicant must be:

- ❖ a parent, or
- ❖ a party to the proceeding who is a:
  - member of the children's immediate family,
  - relative or individual who has lived with the children in a parent or custodial relationship, or
  - member of the community who has a cultural or traditional responsibility towards the children.

Where an applicant is financially eligible and his or her children have been removed or are at risk of being removed, coverage is provided.

Where the child isn't born yet and there is a risk of removal at birth, coverage is provided.

Where the CFCSA director has filed an application to obtain a Continuing Custody Order (CCO), coverage is provided.

Where the client is the applicant or respondent to an application to cancel a CCO, or an applicant wanting to obtain access to his or her children after a CCO, coverage is discretionary.

Where the CFCSA director has filed an application to permanently transfer custody of a child, who's in the temporary care or custody of a person other than the child's parent or MCFD, to a person other than the child's parent(s), coverage is provided.

Where the CFCSA director has filed an application to permanently transfer custody of a child who's in the continuing care (CCO) of MCFD to a person other than the child's parent(s), and the director's application puts the parental relationship with the child at risk, coverage is discretionary.

An applicant does not have to permanently reside in BC or hold Canadian citizenship to qualify for legal representation.

**Note:** An applicant who's in jail and who is a parent or a party to the proceeding qualifies for legal representation, whether or not they're served with notice of the CFCSA proceeding.

## **Overview of LSS Coverage Guidelines**

### **Exception**

Youth who are temporary or permanent wards of the Ministry of Children and Family Development (MCFD) are not eligible for legal aid representation. In such cases, MCFD will arrange for counsel through the Ministry of Attorney General.

### **Third party (non-parent) applicant who is not a party to the proceeding**

An applicant may be covered if:

- they're:
  - the child's relative (such as sibling, grandparent, step-grandparent, aunt, uncle), or
  - a member of the child's community who has a cultural or traditional responsibility towards the child.

AND

- they want to become a non-custodial or custodial caregiver for a child who is at risk of removal, has been removed, or is in the care MCFD.

An applicant is not covered if:

- there is a final CFCSA order regarding the child (there can be ongoing court proceedings, but no Continuing Custody Order or Permanent Transfer of Custody Order under s.54.01 or 54.1), or
- they only want access to a child who's in the care of MCFD.

If an applicant satisfies the guidelines above, the application is sent for an exception review.

### **Third party (non-parent) applicant - Exception review guidelines**

The decision to approve a representation contract for a third party applicant who is not a party to the proceeding is a discretionary decision made by the Manager, Family Law Services or their delegate.

Considerations include, but are not limited to, the following:

- the applicant is not currently the child's foster parent,
- the applicant has a reasonable likelihood of success in achieving the desired outcome,
- the outcome will benefit the child if successful,
- the child may be left at risk of removal if coverage is denied,
- the applicant has, or has the ability to have, a real and substantial connection to, or relationship with, the child,
- the applicant is able to provide stability for the child's care,
- the applicant can have a significant role in maintaining the child's connection to their cultural traditions, customs, language, and/or community,
- the applicant doesn't have other viable options, other than legal representation, to deal with the issue, and
- there's remaining LSS budget available to fund the case.

## Overview of LSS Coverage Guidelines

**Note:** Clients making third party applications do not get sent to the Parents Legal Centres (PLC). See Parents Legal Centres. If approved, the Regional Centre/Local Agent Intake staff issue Contracts to LSS's Tariff Bar.

### Independent legal advice for a child or third party

An applicant isn't covered for independent legal advice for a child, or a third party who may be receiving permanent custody of a child with the consent of the Director of the Ministry of Children and Family Development (MCFD). Instead, MCFD has contracted with LSS to provide an applicant with a lawyer's services. LSS has a province-wide roster of lawyers who provide independent legal advice to:

- **children over 12** who're
    - the subject of proposed consent orders, or
    - wards of MCFD, and
      - consenting to adoption, or
      - being permanently transferred to the custody of a person who isn't their parent.
- OR
- **third parties who may be receiving permanent custody of a child.**

The applicant must contact the child's social worker, who will arrange an appointment with a lawyer from the LSS roster and provide that lawyer with a billing form.

***NOTE:*** *If a client does not qualify financially for legal aid they may be able to go to court and make a "JG" application. Before a client can apply for a "JG" application the client must apply for legal aid. They must be refused by the legal aid intake worker, then they must ask, in writing, for that decision to be reviewed. If the review is also denied, the client will be sent a letter along with our booklet "If You Can't Get Legal Aid for Your Child Protection Case", which explains how to apply to the courts for a court appointed lawyer to assist them with their matter.*

### Choice of Indigenous Counsel for Indigenous Clients With Family or CFCSA Cases (Pilot Project)

If an Indigenous client with a Family or CFCSA case requests Indigenous counsel and no local Indigenous counsel is available, LSS will try to find non-local Indigenous counsel who is available to accept the contract, and will pay this lawyer Travel costs.

### Parents Legal Centres

A Parents Legal Centre (PLC) provides advice and limited representation services to parents facing child protection issues to support early, collaborative resolutions outside of contested hearings. LSS has 10 PLC's around the Province - in Campbell River, Duncan, Kamloops, Prince George, Smithers/Hazelton,

## Overview of LSS Coverage Guidelines

Surrey, Terrace, Vancouver (at the Provincial Courthouse at Robson Square), Victoria, and Williams Lake (temporarily being run out of the Kamloops PLC office).

If a client:

- ❖ is a parent, or a party to the proceeding with whom the child resides and who stands in place of the child's parent or guardian, and
- ❖ has a child protection matter that is in or would be heard in Provincial Court in one of the cities the PLCs are located in, and
- ❖ meets the financial eligibility guidelines for a CFCSA Representation Contract

Then the PLC will provide:

- ❖ information and advice on options for resolving child protection issues out-of-court
- ❖ legal advice and representation, where appropriate, at collaborative processes such as mediation and Family case planning conferences
- ❖ information and advice on court processes
- ❖ legal advice and representation at uncontested hearings
- ❖ referrals to other services, including online resources and other public agencies

All eligible applicants will be referred to the PLC instead of receiving a CFCSA representation contract under the *CFCSA Tariff*. If the issues cannot be resolved collaboratively and the applicant meets coverage and financial eligibility guidelines for a CFCSA representation contract, LSS may appoint a lawyer to complete the case.

**Note:** Clients making Third Party applications do not get sent to the Parents Legal Centres (PLC). If approved, the Regional Centre/Local Agent Intake staff issue Contracts to LSS's Tariff Bar.

## Immigration Coverage Guidelines (Only the Vancouver Legal Aid office deals with Immigration cases)

### General

To qualify for legal aid representation, an applicant must:

- ❖ be financially eligible, and
- ❖ have an Immigration law problem covered by the LSS Immigration coverage guidelines.

An applicant is covered if he or she:

- ❖ is making a refugee claim in Canada, or
- ❖ faces an Immigration proceeding and it could result in deportation from Canada to a country where his or her life is in danger or if he or she has other compelling reasons for not returning to his or her country.

LSS screens Immigration cases for merit to determine whether the applicant has a reasonable chance of being successful in his or her case.

## Overview of LSS Coverage Guidelines

### Refugee claims

Contracts for refugee and protected persons claims made in Canada include:

- ❖ preparation of a Basis of Claim form, and
- ❖ preparation for and representation at refugee hearings before the Refugee Protection Division (RPD) of the Immigration and Refugee Board.

### Other immigration cases

The following types of cases will be referred to the LSS Judicial Appeals Section at the Vancouver Regional Centre. The Judicial Appeals Section screens these cases for merit and issues contracts if they determine that the applicant has a reasonable chance of being successful in his or her case.

- ❖ an appeal of a refugee claim refusal to the Refugee Appeal Division
- ❖ admissibility hearings before the Immigration and Refugee Board Adjudication Division
- ❖ judicial Review applications to the Federal Court of Canada, and appeals to the Federal Court of Appeal or the Supreme Court of Canada to review an order of the Immigration and Refugee Board or an immigration officer
- ❖ applications to stay a removal from Canada made to the Federal Court of Canada
- ❖ applications to reopen or reinstate proceedings before the Immigration and Refugee Board
- ❖ permanent resident (landed immigrant) deportation appeals to the Immigration Appeal Division (IAD) of the Immigration and Refugee Board
- ❖ Pre-Removal Risk Assessment (PPRA) submissions to Citizenship and Immigration Canada
- ❖ Humanitarian and Compassionate (H&C) submissions to Citizenship and Immigration Canada
- ❖ applications by people detained by immigration who cannot access duty counsel
- ❖ applications by spouses or partners with [conditional permanent residence](#) who are leaving the relationship before the end of the two-year conditional cohabitation period
- ❖ sponsorship appeals to the Immigration Appeal Division of the Immigration and Refugee Board where the applicant is in Canada and faces a risk of removal

### Family LawLINE

The Family LawLINE is a telephone advice service that provides brief next-step help for people representing themselves, as well as provides options for resolving legal issues outside of court, and referrals to online resources and other agencies. Clients with a Family law issue can access this service through the Legal Services Society provincial call centre, engage with a lawyer over the telephone, and share documents by email or fax. Lawyers work from their own offices across the Province and engage with clients through a free remote access telephone system.

The Family LawLINE can also provide up to six hours of service per legal matter. Clients can make phone appointments so that one lawyer and client can work together throughout the contract.

### The Family LawLINE will provide the following:

- ❖ Up to 6 hours of service for each current legal matter
- ❖ Appointments so that one lawyer and client can work together throughout the contract
- ❖ Interpreters if clients need services in languages other than English
- ❖ Information and advice on court processes, both Provincial and Supreme Court

## **Overview of LSS Coverage Guidelines**

- ❖ Information and advice on options for resolving legal issues out-of-court
- ❖ Referrals to other services, including online resources and other public agencies
- ❖ Assistance with preparing documents for court or other legal processes
- ❖ Coaching to help people who are representing themselves through all stages of court and other collaborative processes
  - Coaching will help the client understand the law relevant to their particular case, make more effective court appearances, present evidence properly, prepare for negotiation and settlement, and use Public Legal Education and Information (PLEI) tools.

### **To qualify for the Family LawLINE service, a client must:**

- ❖ Qualify financially
- ❖ Have an eligible family law issue
- ❖ Not have a lawyer already working for them

### **To access the Family LawLINE service:**

- ❖ To find out if a client is eligible for this service, they must call the Legal Services Society provincial call centre at 604-408-2172 (for Greater Vancouver) or toll free 1-866-577-2525 Monday to Friday from 9:00 am to 3:00 pm (Wednesday to 2:30 pm).

## **Expanded Family Duty Counsel (Victoria)**

Expanded Family Duty Counsel at the Victoria Justice Access Centre (JAC) is modelled on the Expanded Family Duty Counsel program in Vancouver.

Expanded Family Duty Counsel will provide up to six hours of service per legal matter, set appointments so that clients can work with the same lawyer throughout their legal matter, and introduce legal coaching to help clients represent themselves in court.

These services are in addition to regular Family Duty Counsel services (information and advice on family law issues, court processes, and options for resolving legal issues outside of court; help with document preparation and preparation for court appearances; representation in court on brief uncontested issues; and referrals to online resources and other agencies).

## **Expanded Criminal Duty Counsel (Port Coquitlam)**

Expanded Criminal Duty Counsel (ECDC) is located at the Provincial Court in Port Coquitlam. ECDC will provide out-of-custody duty counsel services, including summary advice and assistance, to accused people making initial appearances in Port Coquitlam. The Duty Counsel lawyer will retain conduct of select non-complex cases up to the trial fix date where the applicant meets the ECDC's coverage and financial eligibility guidelines.

## Overview of LSS Coverage Guidelines

The Duty Counsel lawyer will provide continuing services to try to achieve early resolution of cases, such as:

- ❖ reviewing disclosure
- ❖ having discussions with Crown Counsel
- ❖ attending court if a guilty plea is required to resolve the case
- ❖ expanded criminal duty counsel will not conduct bail hearings

All eligible applicants with matters in Port Coquitlam will be referred to ECDC instead of receiving a criminal representation contract under the *Criminal Tariff*. If the case cannot be resolved before the trial fix date and the applicant meets coverage and financial eligibility guidelines for a Criminal Representation contract, LSS may appoint a lawyer to represent him or her at trial.

The ECDC in Port Coquitlam will replace regular out-of-custody duty counsel at that location. In-custody Duty counsel will continue to be done by lawyers on the Criminal Duty Counsel roster.

**Note: The applicant doesn't need to face a risk of jail upon conviction to be eligible for ECDC.**

**Note: If the applicant is currently in jail and eligible for a representation contract, but they may be eligible for ECDC services if released, the applicant will be referred to In-custody Duty Counsel or his/her lawyer will be issued a "bail hearing only" contract.**

## Reciprocals

As of **September 4<sup>th</sup> 2018**, clients who wish to apply for legal aid Family/CFCSA services in another province may now apply to the corresponding province directly. This means that clients from other provinces may apply for our service directly and vice versa.

If a BC client is dealing with a matter in another province and they are unable to find contact information for that province they can contact the BC Legal Aid Call Centre at 1-866-577-2525 to get that information.

Each province will still have a Reciprocal Coordinator in case clients have trouble contacting the other provinces. Courtesy applications may be sent to the other provinces by the Reciprocal Coordinator in these cases. You may contact our Reciprocal Coordinator at [reciprocity@lss.bc.ca](mailto:reciprocity@lss.bc.ca) to see if he can assist.

## Discretionary coverage

### Criminal cases

If an applicant is only marginally over the financial eligibility guidelines, by up to \$200 on income or \$500 on assets, and the matter is a serious and complex case that would likely result in a successful Rowbotham order, and there is available budget, the intake worker can send it for a discretionary coverage assessment. However, if the case would be covered by a CERC, then the intake worker would send a CERC to the client's lawyer. If, after reviewing the file with the client, the lawyer feels the client should have a Standard Contract and go to Trial even though they are marginally over the Standard Criminal financial guidelines, they will send in a Conversion Request to the Provincial

## **Overview of LSS Coverage Guidelines**

Supervisors, who will then determine if a Discretionary Coverage Review is appropriate. If so, the file will be forwarded to the Criminal Law Team for review.

### **Family**

If an applicant is only marginally over the financial eligibility guidelines, by up to \$500 on income or \$500 on assets, and the matter is serious, and there is available budget, the intake worker can send it for a discretionary coverage assessment.

### **Immigration, and Appeal cases**

If an applicant is only marginally over the financial eligibility guidelines, by up to \$200 on income or \$500 on assets, and the matter is serious, and there is available budget, the intake worker can send it for a discretionary coverage assessment.

### **CFCSA and Parents Legal Centres**

There is no discretionary coverage for CFCSA or Parents Legal Centre matters as the financial eligibility income guidelines for CFCSA and the Parents Legal Centres are \$1,000 over our regular financial eligibility guidelines. If a client is over the financial eligibility guidelines for CFCSA or the Parents Legal Centres, they are refused on the basis of financial eligibility and provided with a JG Application.

## **Exception review guidelines**

### **Exception Review merit considerations for all cases:**

The decision to approve a case on exception review is a discretionary decision made by a Provincial Supervisor, Legal Aid Applications, and is based on established guidelines, a merit test, and available budget.

Merit considerations include:

- ❖ the applicant's issue is significant;
- ❖ the outcome will benefit the applicant and/or his/her children if the case is successful;
- ❖ the applicant has a reasonable likelihood of success;
- ❖ a reasonable person of modest means would themselves pay to pursue the case;
- ❖ the applicant does not have other viable options, other than legal representation, to deal with the issue; and
- ❖ there is remaining LSS budget available to fund the case.

### **Family cases**

An application dealing with a matter under the Family Law Act can be sent for an exception review if:

- ❖ the applicant has recently been denied extended family services (within the past year);
- ❖ the applicant has received prior contracts in relation to the same children or parties;
- ❖ the emergency services policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex;

## **Overview of LSS Coverage Guidelines**

- ❖ the applicant has a mental or physical disability and is unable to represent him or herself (there must be a significant barrier that will create an injustice if the applicant is not represented);
- ❖ a significant injustice can only be avoided by appointing counsel;
- ❖ the applicant is so traumatized by past abuse that he/she is unable to represent him/herself;
- ❖ there is references in court documents to sexual, physical, emotional abuse; or
- ❖ the applicant is the subject of litigation harassment.

## **Criminal cases**

If a policy is unduly harsh in the particular circumstances of an applicant's case or the circumstances are unusual and complex.

If an applicant has been charged with spousal assault (summary or indictable offence) where:

- ❖ there is no risk of jail if convicted; and
- ❖ he or she has a contract for a Family or CFCSA issue that might be negatively affected by the spousal assault charge.

## **Denial of Legal Aid**

If a client is denied legal aid they can request a review of the decision. They must submit a written request within 30 days of the date of the decision. They should state why they disagree with the refusal and explain why they believe they should get legal aid. They also need to include any documents that might support their request for a review.

The request for review can be sent to:

Provincial Supervisor, Legal Aid Applications  
Vancouver Regional Centre  
400 – 510 Burrard Street  
Vancouver, BC  
V6C 3A8  
Fax: 604-682-0787  
Email: [provincialsupervisors@lss.bc.ca](mailto:provincialsupervisors@lss.bc.ca)

## 5. Skills and Procedure

**Best Practices, Ethics and File Management**  
**October 8, 2019**

**The following comments were shared by participants during the session:**

**Scenario 1: Client at risk of violence**

- Safety concern → safety planning
- Determine whether keeping them on the phone increases or decreases their safety
- Negative experiences with the police can be a consideration
  - o Balance risk v. consent
  - o Understand that there may be increased risk by contacting police
  - o Women are the experts of their experience and have kept themselves alive and safe this far → honour their choices
- A flow chart can be helpful to determine the decision points (e.g: is it OK to continue this call? Yes/no → is it ok to talk to the caller about her risk of violence? Yes/no).
- Try to determine whether the dangerous person is listening in to the call
- Are there kids involved? If so, you may have a duty to report as per child protection laws
- Intake process needs to explicitly describe limits to confidentiality
- Confidentiality essential to our ability to do our jobs
- Find ways to address safety concerns without breaking confidentiality
- Consult with supervising lawyer

**Scenario 2: The same Bob**

- Must be able to act in the best interest of your client – it may be impossible to do so in this situation, even if it doesn't immediately seem like a conflict
- Be aware of confidentiality of original client when communicating that there is a conflict to the second client
- It might be possible to set up an in-office referral to a colleague with the guidance of your supervising lawyer
  - o Refer out whenever possible (best practice)
- Be very clear regarding who the parties are and who you are acting for
- Be extremely clear regarding the boundaries of your services
- There may be a problem regarding your personal capacity to represent the client given what you have been told about them by the original client
- Be alive to perceived conflicts

**Scenario 3: Non-disclosure of info to MSDPR**

- Discuss consequences for non-disclosure with client
- Can help client disclose to the Ministry in the best way (e.g. to avoid fraud charges)
- Talk to Alison Ward!
- Unpack what is actually being received and why
- We can't assist client with misrepresentation to MSDPR

- Advocate can't help with fraud – be clear about this boundary with the client
- Ask questions ahead of time to avoid surprises
- Perpetuating fraud undermines you and your organization even though you can empathize with some of the reasons a client may be tempted to lie (e.g. not sufficient income, don't trust government)
- Strategy: give the client the opportunity to pose hypothetical questions so that they can receive information and explore consequences without disclosing fraud to you
- If possible, let the client know what might happen if they tell you they are committing fraud

**Scenario 4: Tenant subletting unit**

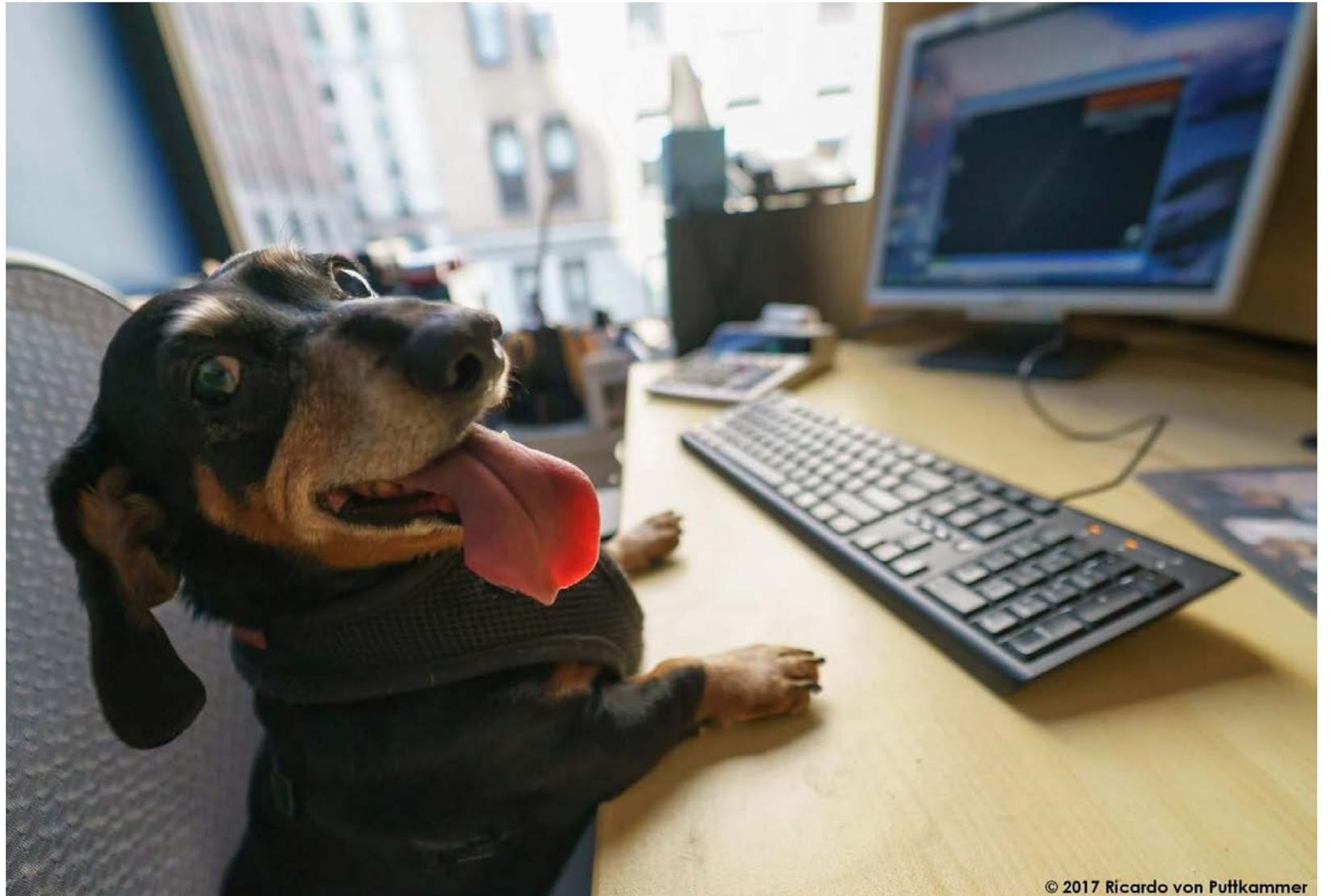
- Tenant acting as LL might be a hard boundary for your organization
- May choose to refer landlords to RTB, Landlord BC etc.
- If giving generic information (e.g. RTB policy guideline sheet), make sure it's clear that it's PLE and NOT legal advice, advise them to seek independent legal advice

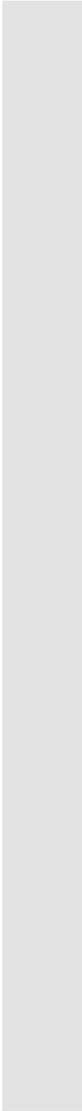
# Statutory Interpretation

Kendra Milne, October 9 2019

<http://www2.moa.ubc.ca/musqueamteachingkit/alphabet.php>

If only we all felt  
this way about  
statutory  
interpretation

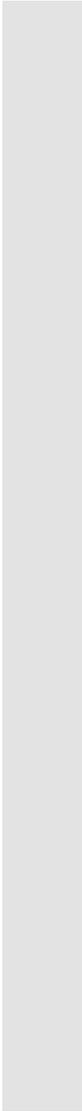




# Refresher: Modern Rule

# Modern Rule

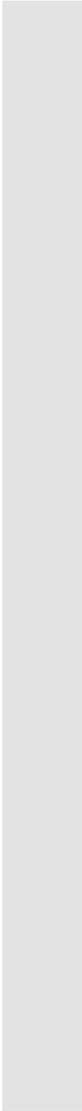
Ordinary Meaning + Context =  
Driedger's Modern Rule



# Refresher: Ordinary Meaning

# Ordinary Meaning

- Get the actual legislation (\*including definitions, and any related legislation\*)
- Make sure it's up-to-date
- Make sure it's in force
- Make sure it's formatted



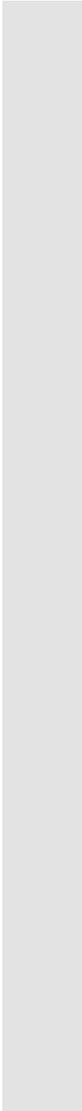
Refresher: Ambiguity

**Ambiguity**

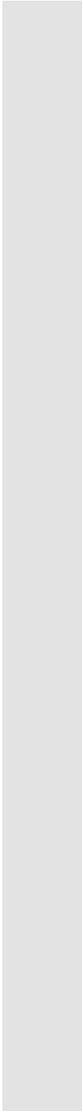
An opportunity for persuasion

# Ambiguity

- You're trying to be credible to the decision-maker (put yourself in their shoes)
- Think about what sources are the most persuasive (hint: binding ones)
- What are some examples of binding sources?
- What about non-binding sources?
- How do we determine what is persuasive?



Questions?



# Exercise 1

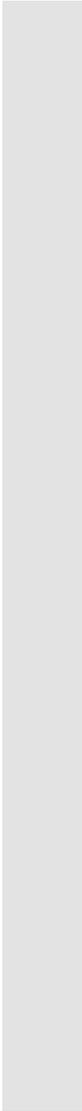
## Exercise 1

Jael was renting an apartment for 2 years. She pays \$1050 per month. When she initially moved in, she tells you her landlord required her to pay an extra half a months' rent. She's pretty sure she remembers doing a move-in inspection, but she doesn't think she ever received a copy.

Two months ago, Jael moved out to move in with friends and her landlord has not returned her deposit and she wants your help to get it. When you ask her if she and the landlord did a moveout inspection, she says he texted her a couple of times, but she was busy moving her things into her new home.

## Exercise 1

- What are the relevant statutory provisions?
- Where is there ambiguity?
- What sources can we think of to help resolve the ambiguity?
- Order from most persuasive to least persuasive



# Exercise 2

## Exercise 2

Ajeet comes into your office saying that he had been working part-time for a local shipping company making \$14/hr. When he arrived for work 3 weeks ago, he was told there was no more work for him and he should go home. Ajeet thinks that after working there for 14 months, he's entitled to some money for being fired when he didn't do anything wrong. He works another part-time job at a fast food restaurant, but he doesn't earn enough only working there.

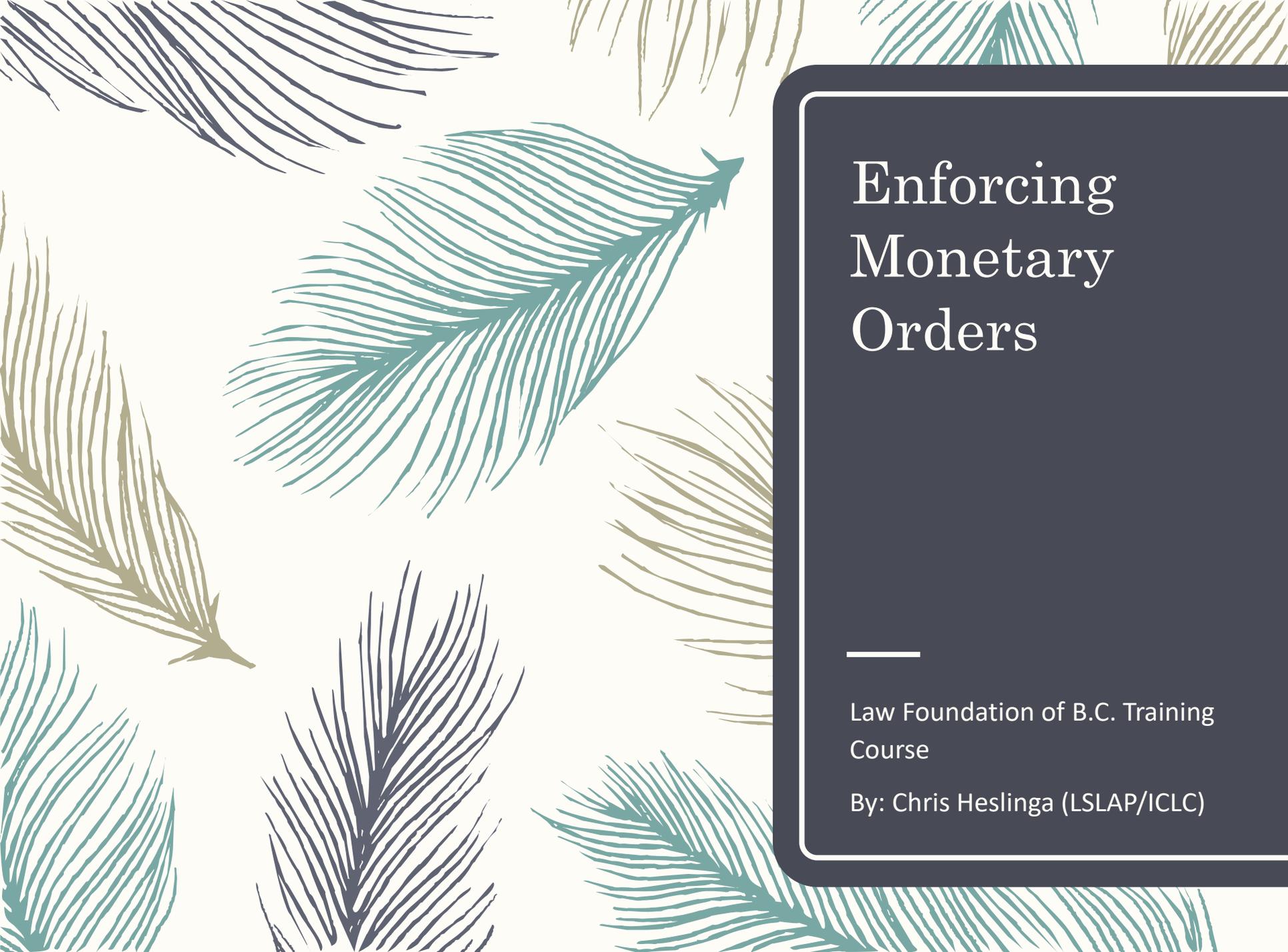
When you ask to see any employment documents he has, Ajeet says he never signed anything when he first started at the shipping company. He says he helped move packages, load a truck, he cleaned sometimes – basically he says he just did whatever Rob, the owner, asked him to do. Ajeet says Rob always called him a contractor. Ajeet got paid by cheque whenever he had worked a couple of hundred dollars in hours by giving Rob an invoice on a template Rob gave him when he started. The shipping company is not unionized.

## Exercise 2

- What are the relevant statutory provisions?
- Where is there ambiguity?
- What sources can we think of to help resolve the ambiguity?
- Order from most persuasive to least persuasive



Thank you!



# Enforcing Monetary Orders

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Law Foundation of B.C. Training  
Course

By: Chris Heslinga (LSLAP/ICLC)



# Outline

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- Common Enforcement Issues
- Enforcement Options in B.C. Supreme Court
- Enforcement Options in B.C. Provincial Court:
  1. Payment Hearing
  2. Garnishing Orders
  3. Seizure and Sale
  4. Registration Against Land
  5. Default Hearing
- Fact patterns/group work
- Resources

# Common Enforcement Issues

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- 
- Unable to locate defendant and/or their assets:
    - Land Title Office Search
    - Personal Property Registry and Registry of Company Shares
    - Motor Vehicle Registry Search
    - Credit Check
    - Writs filed with Court Bailiff
  - Defendant avoiding service – Application for Alternative Service



# Common Enforcement Issues – Continued

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- Fear of the defendant
  - contact the police or have friends/family serve documents
- Defendant not following payment plan
  - go to enforcement options
- Corporate Defendant doesn't have assets to satisfy judgement
  - the court can find the Directors of the corporation can be found personally liable (*SPC Holdings and Construction Ltd. v. Gabriel*, [2013 BCPC 31](#))
- Claims against 3<sup>rd</sup> parties
  - have to make separate claim

A decorative graphic of a feather, rendered in a light beige color, is positioned on the left side of the slide. It has a central rachis with numerous barbs extending outwards, creating a fan-like shape.

# Enforcement Options in B.C. Supreme Court

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- Examination in Aid of Execution
- Subpoena a Debtor
- Committal for Contempt
- Garnishment
- Execution Against Real Property or Personal Property

# Enforcement – First Steps:

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## 1. Need an ORDER/judgment.

- payment order, consent order, or default order from a court or tribunal (such as the Residential Tenancy Branch (RTB), Employment Standards Branch (ESB), Civil Resolution Tribunal (CRT) or Human Rights Tribunal (HRT))
- A judgement is valid for 10 years (*Limitation Act* RSBC 1996, c 266: s 3(3)(f))
- Payment must be due under the order (sometimes orders give deadlines to pay, if no deadline stated, then it is due immediately)

## 2. Wait for the applicable appeal period.

- Can contact the Tribunal to determine if appeal has been filed

## 3. Send the ORDER along with a demand letter (advising of legal action if order is not complied with in a certain amount of days).

- Does not need to be a formal demand letter from a lawyer, just a letter demanding payment

# Enforcement – First Steps Continued

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- 
4. Must REGISTER the payment order in B.C. Provincial Court.
    - “Payment Order”/ Form 10
    - Interest and expenses can be included along with details of how those numbers were determined/calculated
    - Can also be used when no money is ordered, or when there are “non-monetary” orders, like orders to perform specific actions
  - Useful to obtain searches of possible assets and existing debts to determine enforcement possibilities (Land Title Office, Personal Property Registry)



# PAYMENT ORDER

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

### In the case between

Fill in the name(s), address(es) and phone number(s) of the parties. Include a third party if one was named. Be careful to name the parties correctly.

NAME: \_\_\_\_\_ CLAIMANT(S)

ADDRESS: \_\_\_\_\_

CITY, TOWN, MUNICIPALITY: British Columbia TEL. # \_\_\_\_\_

PROV. POSTAL CODE

and

NAME: \_\_\_\_\_ DEFENDANT(S)

ADDRESS: \_\_\_\_\_

CITY, TOWN, MUNICIPALITY: British Columbia TEL. # \_\_\_\_\_

PROV. POSTAL CODE

and

NAME: \_\_\_\_\_ THIRD PARTY

ADDRESS: \_\_\_\_\_

CITY, TOWN, MUNICIPALITY: British Columbia TEL. # \_\_\_\_\_

PROV. POSTAL CODE

On \_\_\_\_\_ DATE \_\_\_\_\_

Check the appropriate box

at a  Settlement Conference, where \_\_\_\_\_ NAME \_\_\_\_\_ failed to appear

Payment Hearing

Trial Conference

OR  By Agreement

If the judge, justice of the peace or registrar has ordered payment of money, fill in the name of the party ordered to pay and the name of the party the money is to be paid to.

THIS COURT ORDERED \_\_\_\_\_ NAME \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TO PAY TO \_\_\_\_\_ NAME \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_ Amount ordered by the Judge

+ \$ \_\_\_\_\_ Expenses allowed

+ \$ \_\_\_\_\_ Interest

= \$ 0.00 TOTAL AMOUNT OF PAYMENT ORDER

Check the appropriate box

immediately, or

If the judge, justice of the peace or registrar has ordered payment by installments or before a fixed date, say what amounts are to be paid and when.

in accordance with the following payment schedule \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Has the judge, justice of the peace or registrar ordered something other than the payment of money?

THIS COURT ORDERS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ + \$ \_\_\_\_\_ any expenses allowed

This will be signed and dated by the court.

\_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_ BY THE COURT

For more information about enforcement proceedings there is a booklet called "Getting Results"

PAYMENT ORDER

court copy



# Enforcement Options Overview

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## 1. Payment Hearing

- Best first step, especially when you don't know much about the defendant's assets/income

## 2. Garnishing Orders

- Can be made against income and assets, but only works once

## 3. Seizure and Sale

- Requires defendant to have assets worth **more than** the judgement (to account for the cost of seizing and selling)

## 4. Registration Against Land

- Must be renewed before it expires, prevents selling and mortgaging

## 5. Default Hearing

- When a payment order hasn't been followed



# 1. Payment Hearings (Rule 12)

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- A hearing before a judge or justice of the peace to determine the debtor's ability to pay and consider whether a payment schedule should be ordered (Rule 12(1)).
- Debtor must bring records and evidence of income and assets, as well as other debts owed and assets disposed of since the claim arose (*Fraudulent Conveyance*).
- Can be requested by debtor (must use form 13).
- Must use a summons to payment hearing and serve personally at least 7 days before the Payment Hearing (Rule 12(7)).
  - Proof of service is not required, unless debtor does not show up and the creditor wants a warrant of arrest (Rule 12(15)).



# SUMMONS TO A PAYMENT HEARING

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

### TO:

Fill in the name, address and telephone number of the person you are requiring to come to court.

NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY, TOWN, MUNICIPALITY: \_\_\_\_\_ **British Columbia** \_\_\_\_\_ PROV. \_\_\_\_\_ POSTAL CODE: \_\_\_\_\_

Copy the names of all parties in the case as shown on the Payment or Default Order.

**You have been summoned to a payment hearing in the case between:**  
 \_\_\_\_\_ CREDITOR  
**and**  
 \_\_\_\_\_ DEBTOR

Fill in the date, time and place of the hearing.

**You are required to attend the Provincial Court of British Columbia**

\_\_\_\_\_ at \_\_\_\_\_ or as soon after this time as the court schedule allows.  
 \_\_\_\_\_ at \_\_\_\_\_  
date time am/pm court location

List what you want the person to bring to court.

**You are required to bring the following records and other things:**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If claiming interest, show your calculation. Attach an extra sheet if necessary.

(a) Total Amount of Payment Order		\$	_____
(b) Less any payments to the creditor	-	\$	_____
(c) Amount remaining due	=	\$	_____
(d) Interest (calculated to the date below)	+	\$	_____
(e) Creditor's expenses allowed by the Court	+	\$	_____
Amount Due to the creditor	Total =	\$	_____

### What happens at the payment hearing?

- Evidence may be heard about any of the following:
- a) the income and assets of the debtor;
  - b) the debts owed to and by the debtor;
  - c) any assets that the debtor has disposed of since the claim arose;
  - d) the means that the debtor has, or may have in the future, of paying the amount owed.

### Can the summons be cancelled?

- Any person who is served with a Summons to a Payment Hearing may apply to a judge who may
- a) cancel the summons if the person is not the right person to provide information on behalf of the debtor, and
  - b) direct the registrar to issue a new summons to someone who is the right person to provide the information.

### What happens if the person summoned does not attend?

If the creditor asks, a warrant for the arrest of the person may be issued.

\_\_\_\_\_ by the court



# Payment Hearings Continued

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- Once a payment hearing has been ordered, the creditor cannot take any other enforcement action until after the payment hearing.
- Information obtained can then be used to order immediate payment, if debtor has liquid assets.
- Asset information can be used to pursue garnishment and/or seizure and sale.
- If no assets, then payment schedule can be ordered by the judge based on income and expenses presented by debtor.



# Payment Hearings – what a debtor must bring

---

- Only what the creditor includes in the summons or what a judge has ordered.
- Judge may order (or creditor may request) debtor to bring ‘statement of finances’ and records that support it.
- Some suggested items include:
  1. banking records;
  2. financial statements;
  3. tax returns and supporting documents;
  4. payment records;
  5. credit card statements;
  6. utility bills;
  7. RRSP statements;
  8. lists of receivables; and
  9. client lists.

# STATEMENT OF FINANCES

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA (SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

I, \_\_\_\_\_,  
state:

(STRIKE OUT ANYTHING THAT DOES NOT APPLY TO YOU AND INITIAL.)

- I am married / single / other (specify): \_\_\_\_\_
- I support and maintain (specify number):  
 Children under 18 \_\_\_\_\_  
 other dependants \_\_\_\_\_
- Listed below is an accurate "Statement of Finances" of my household.

MONTHLY INCOME		MONTHLY EXPENSES	
Net Salary	\$ _____	Rent	\$ _____
Commissions	\$ _____	Mortgage	\$ _____
Tips and Gratuities	\$ _____	Property Taxes	\$ _____
Unemployment Insurance	\$ _____	Utilities (heat & light)	\$ _____
Pension	\$ _____	Phone	\$ _____
Investments	\$ _____	Cablevision	\$ _____
Rentals	\$ _____	House/Tenant Insurance	\$ _____
Business Income	\$ _____	Life Insurance	\$ _____
Child Tax Benefit	\$ _____	Food	\$ _____
Maintenance (if any)	\$ _____	Restaurant Meals	\$ _____
Workers' Compensation	\$ _____	Sundries & Personal Grooming	\$ _____
Monthly Income of Spouse/Common-Law Spouse living with me	\$ _____	Clothing	\$ _____
Income of Children (if any)	\$ _____	Laundry & Dry Cleaning	\$ _____
Other	\$ _____	Motor Vehicle (lease or loan)	\$ _____
		(license, insurance, fuel & service)	\$ _____
		Transportation (public)	\$ _____
		Newspapers & Subscriptions	\$ _____
		Entertainment	\$ _____
		Alcohol & Tobacco	\$ _____
		Gifts	\$ _____
		Church & Charities	\$ _____
		Maintenance Payments	\$ _____
		Child Care & Babysitting	\$ _____
		School Expenses/Children's Activities, Lessons	\$ _____
		Other	\$ _____
<b>SUB-TOTAL</b>	\$ _____		
Income Assistance	\$ _____		
<b>A. INCOME TOTAL</b>	\$ _____	<b>B. EXPENSES TOTAL</b>	\$ _____

## MONTHLY DEBTS

Credit Card(s): (please specify)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Bank or Finance Company: (please specify)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Department Store(s): (please specify)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Other:

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**C DEBT PAYMENT TOTAL** \$ \_\_\_\_\_

## VALUE OF ASSETS

Real Estate Equity

Market Value \$ \_\_\_\_\_

Mortgage Balance \$ \_\_\_\_\_

Automobile Equity

Make and Year \_\_\_\_\_

Market Value \$ \_\_\_\_\_

Loan Balance \$ \_\_\_\_\_

Bank or Other Account (include RRSP's) \$ \_\_\_\_\_

Stocks & Bonds \$ \_\_\_\_\_

Life Insurance \$ \_\_\_\_\_

Money owing to you \$ \_\_\_\_\_

Name of Debtor \_\_\_\_\_

Personal Property \$ \_\_\_\_\_

Cash \$ \_\_\_\_\_

Other \$ \_\_\_\_\_

If you need more space for any item on this Statement, attach an extra sheet and sign it.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

<b>A. INCOME TOTAL</b>	\$ _____
<b>B. EXPENSES TOTAL</b>	- \$ _____
<b>SUB-TOTAL</b>	= \$ _____
<b>C. DEBT PAYMENT TOTAL</b>	- \$ _____
<b>BALANCE</b>	= \$ _____

### Copies of this form:

If you have been summonsed to court, bring the original of this *Financial Statement* and two copies to court to be filed. One copy is for you and the other is for the other party.

### Reminder:

Be sure to bring any documents specifically required by a summons you may have received.

If there are no documents mentioned on the summons, you should bring the following items to support your Statement of Finances:

- Copies of your last 2 years' Income Tax Returns and T-4 slips
- If you are not employed, recent proof of the source and amount of your income (such as your 3 most recent Employment Insurance benefit statements)
- copies of your last 2 months utility bills for hydro, telephone and cable
- copies of your last 6 monthly bank statements for all bank accounts
- copies of any mortgage or rent agreements and receipts for the last 6 months
- any other documents you feel are important to establish your financial situation



# Payment Hearings – The Hearing

---

- Debtor may be sworn in to give evidence on income, assets, debts, assets disposed of since the claim arose and their means for paying back the debt.
- Judge and debtor can ask questions about these matters.
- Then creditor and debtor make submissions on the appropriate amount of any payment schedule.
- The results are recorded on an application records/order form.



# APPLICATION RECORD/ORDER

In the Provincial Court of British Columbia  
(Small Claims Court)

	REGISTRY FILE NUMBER:
COURTROOM	REGISTRY LOCATION:

Before Judge \_\_\_\_\_ on date \_\_\_\_\_ at time \_\_\_\_\_

In the case between \_\_\_\_\_ CLAIMANT(S)

and \_\_\_\_\_ DEFENDANT(S)

Claimant(s)	Defendant(s)	Defendant(s)/Third Party
<input type="checkbox"/> Counsel/representative	<input type="checkbox"/> Counsel/representative	<input type="checkbox"/> Counsel/representative
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Applications**  Default Payment Order  Cancel Dismissal Order  
 Cancel Default Payment Order  Cancel Garnishing Order/Release Funds in Court  
 Other: (please specify) \_\_\_\_\_

**Order:**  By Consent  Dismissed  Not Heard  Cancelled  Granted

**Adjourned:**  For \_\_\_\_\_ on date \_\_\_\_\_ at time \_\_\_\_\_

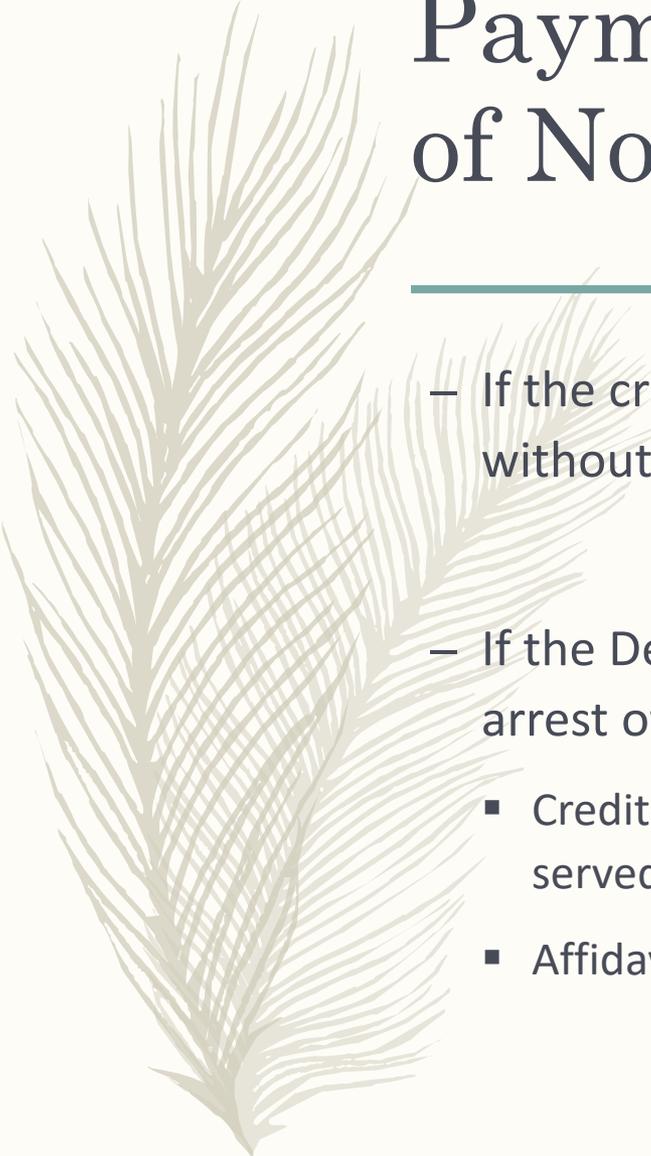
**Order:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 See attachment for continuation of order

**Enforcement**  Summons to Payment Hearing  Summons to Default Hearing  Notice of Payment Hearing  
 Payment Schedule  By Court  By Consent

**Order:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 See attachment for continuation of order

**Warrants:**  Warrant of Arrest  
 Warrant of Immediate Arrest   
 Warrant of Imprisonment for \_\_\_\_\_ days per section \_\_\_\_\_

Signature of a Judge/Justice of the Peace in and for the Province of British Columbia



# Payment Hearings – Result of Non-Attendance

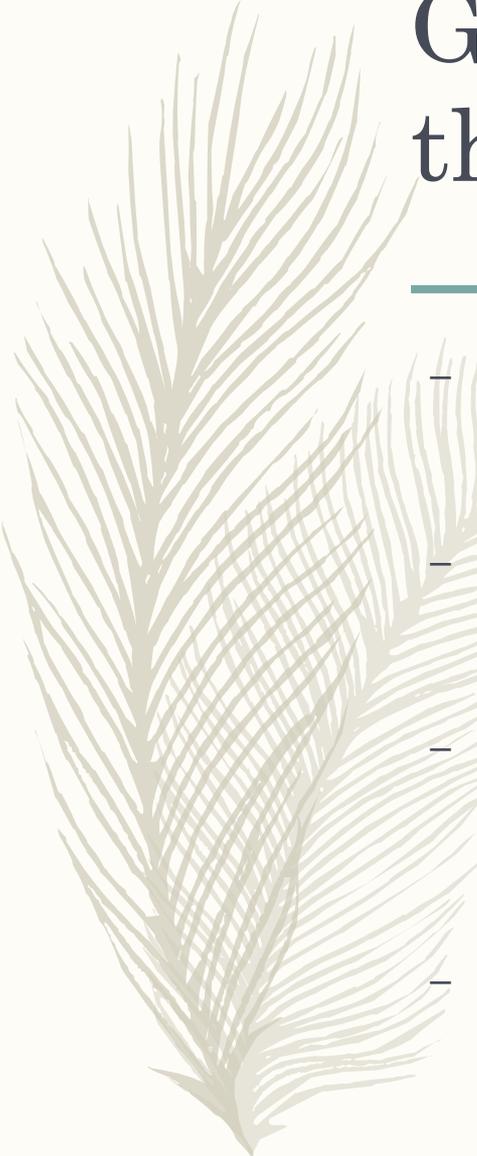
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- If the creditor does not attend the judge can proceed without them, cancel it or postpone it.
- If the Debtor does not attend, the creditor can ask for the arrest of the person.
  - Creditor must produce evidence that debtor was properly served.
  - Affidavit must be filed or oral evidence can be given.

## 2. Garnishing Orders

---

- Requires a 3<sup>rd</sup> party (the garnishee) to pay into court monies owing to the debtor.
- Requires an affidavit and draft order, which must be obtained at the registry and served on the garnishee and defendant.
  - Affidavit must set out: (1) the amount awarded (2) the amount still owing and (3) the name and address of garnishee AND (4) set out that the defendant was served and advised of payment hearing option (and given time to exercise that option).
- Best to serve garnishee first, to ensure debtor doesn't empty the account.
- Ensure accurate information about bank account or employer.
- May garnish up to 30% wages (\$100 or \$200 exempt), or bank accounts.



# Garnishing Orders – getting the money from the court

---

- Registry will send notice to creditor of date and amount paid into court by the garnishee.
- When wages are garnished, once served, the order is valid for 7 days - make sure service happens close to a pay day (call employer and ask).
- Debtor may apply to have the monies released if defects in order, hardship is shown, debt has been paid or if creditor garnished more than the judgement.
- Creditor may apply to get monies out of court (by consent if possible) by either:
  - Serving on the other party a ‘Notice of Payment Out’ form, or
  - Waiting 3 months and have it paid directly (only if order was result of default order).

# 3. Seizure and Sale

---

- Property belonging to the debtor can be seized and sold at public auction.
- The NET sale proceeds go to the creditor (must pay bailiff fees upfront).
- Can only use this option if no payment schedule ordered or if payment schedule is not being complied with (Rule 11(7)).
- Creditor must complete an “Order for Seizure and Sale” in Form 11.
- **Debtor is not notified of the order before seizure.**
- Often involves seizure of motor vehicles – always ensure property is worth seizing and owned solely by debtor.



# Seizure and Sale - Exemptions

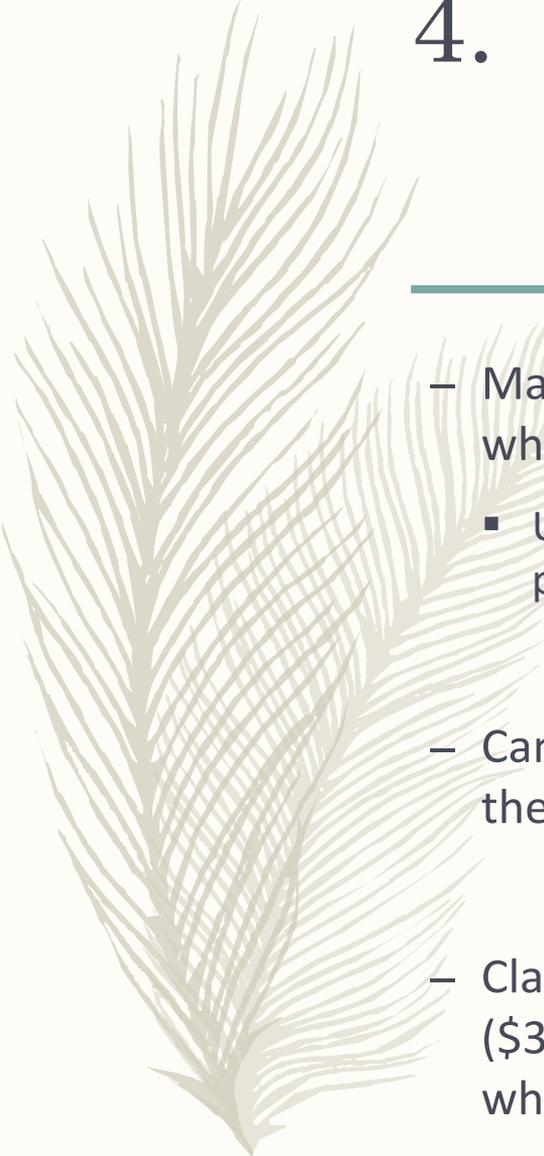
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- Creditor may request that “general property” be seized, but some property is immune from seizure (*Court Order Enforcement Act*).
- Any property **jointly** held with someone else as well as:
  - necessary clothing of the debtor and the debtor’s dependents;
  - household furnishings and appliances that are of a value not exceeding a prescribed amount (\$4,000);
  - one motor vehicle that is of a value not exceeding a prescribed amount (\$5,000 or \$2,000);
  - tools and other personal property of the debtor, not exceeding in value a prescribed amount (\$10,000), that are used by the debtor to earn income from the debtor’s occupation;
  - medical and dental aids that are required by the debtor and the debtor’s dependents;
  - any personal property prescribed by the regulations that is of a value not exceeding a prescribed amount.
  - Debtor’s **principle** residence if the value of their equity does not exceed the prescribed amount (\$12,000 if in GVRD or \$9,000 otherwise)

# Seizure and Sale - Procedure

---

- No registry fees apply to an order for seizure and sale.
- Order is good for 1 year, then it expires.
- Before an order is issued the court will normally require creditor to pay deposit for fees and expenses of bailiffs (as determined by them).
  - The deposit and total fees are added to the judgement and creditor can be partially or fully reimbursed from seizure and sale proceeds.
- Creditor must submit an order to the registrar with:
  1. Cover letter addressed to the court bailiff containing instructions for the execution;
  2. Any searches or other documents; and
  3. The receipt to the registry to confirm the deposit has been paid.



## 4. Registration Against Land

---

- May register judgement against land, and payment will occur when land or property is sold or transferred.
  - Usually prevents the debtor from mortgaging or selling the property until the debt is paid.
- Can be used even if payment schedule is in effect and even if the property is held *jointly*.
- Claimant must obtain a ‘Certified Certificate of Judgement’ (\$30 cost) and then file it in the land title branch in the district where the land is located (land title office fee of approx. \$70).



# Registration Against Land – Expiration and Renewal

---

- Registration is only good for 2 years, but can be renewed before it expires.
- If renewed before it expires the original priority is maintained.
- A new certificate of judgement is not necessary, but a new form 17 application must be submitted along with a copy of the certificate of judgement.
- Can apply to Supreme Court to have the property sold (complicated and costly).



# Enforcement – Default Hearing

---

- If the debtor does not obey a payment schedule, may use default hearing.
- Creditor must complete a summons (form 14) and file it with the registry, who will set a date for the hearing, then must serve summons at least 7 days before the hearing.
- Debtor must bring ONLY what is listed on the summons (similar to payment hearing).
- Judge may confirm or change schedule, make orders for arrest of debtor (which debtor may annul by appearing voluntarily).

# Strategies for Supporting Clients with Mental Health Issues

Kendra Milne

Laura Johnston

Brett Haughian



Canadian Mental  
Health Association  
British Columbia  
*Mental health for all*



Community Legal  
Assistance Society

# Musqueam Statement of Intent Boundary

ćəsnaʔəm



We are here



# Topics

1. Duties / responsibilities as an advocate
2. Improving accessibility of legal services
3. Identifying and working with competing values

# Duties as an Advocate

- **Duty to act on client's instructions** – necessarily partisan, must raise every issue and argument that will help advance the client's case
- **Duty of honesty and full candour** – must inform the client of all information that may affect the interests of the client in the matter
- **Duty of confidentiality** – must keep all information confidential acquired in providing services and must not divulge the information unless authorized by the client or required by law
- **Duty of non-discrimination**
  - Responsibility to comply with human rights law in providing legal services
  - When a client's ability to make decisions is impaired because of mental disability, or for some other reason, advocate must, as far as reasonably possible, maintain a normal advocate-client relationship.

# Duties as an Advocate

What differences, if any, arise in fulfilling your duties as an advocate when representing a client with a mental health or substance dependency issue?

1. Assessing capacity to provide instructions
2. Fulfilling our obligations of advocacy and non-discrimination requires active monitoring of our thinking, attitudes, judgments
  - Eg. what we believe to be true/false
  - Eg. what we believe is best for our client vs. what our client instructs
3. Improving accessibility of legal services

# Capacity to Provide Instructions

- No such thing as an “incapable person”
- Law requires context specific and contemporaneous capacity assessment:
  - Adults may be capable of making some decisions and not others (not all decisions or instructions are the same)
  - Capacity will change over time and is influenced by many factors (time of day, health, substances, support of others). It can change over the course of a file.
- The way an adult communicates with others is not grounds for deciding that she is incapable of understanding.
- It is your decision as an advocate whether your client understands and can provide instructions in that situation. The opinions of others (eg. family, doctors) may be helpful (or unhelpful), but are not determinative.

\* **Practice Tip:** talk to your client before reviewing records/speaking to others

# Capacity to Provide Instructions

- Key questions:
  - does the client understand the decision that has to be made and appreciate the consequences of the decision?
  - what are the ethical implications of acting or refusing to act?
  - what can I or others do to put the supports in place to enable my client to provide capable instructions?

\* **Practice Tip:** A client who needs support to make decisions may benefit from involvement of support person to understand information and convey wishes and preferences when the client wants that person's involvement. BUT, keep track of who your client is.

# True/False

My neighbour is spying on me

I'm going to live with my husband if I lose my housing

My ancestors watch over me from the afterlife

I am the adopted sister of [a famous person]

I have a million dollars in savings

I have a microchip in my head through which I can communicate with my family

My daughter is poisoning me by putting something in my morning tea

I have a good relationship with God through prayer

# True/False

My neighbour is spying on me

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I have a microchip in my head through which I can communicate with my family

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# Does it Matter? Why?

My neighbour is spying on me

I'm going to live with my husband if I lose my housing

My ancestors watch over me from the afterlife

I am the adopted sister of [a famous person]

I have a million dollars in savings

I have a microchip in my head through which I can communicate with my family

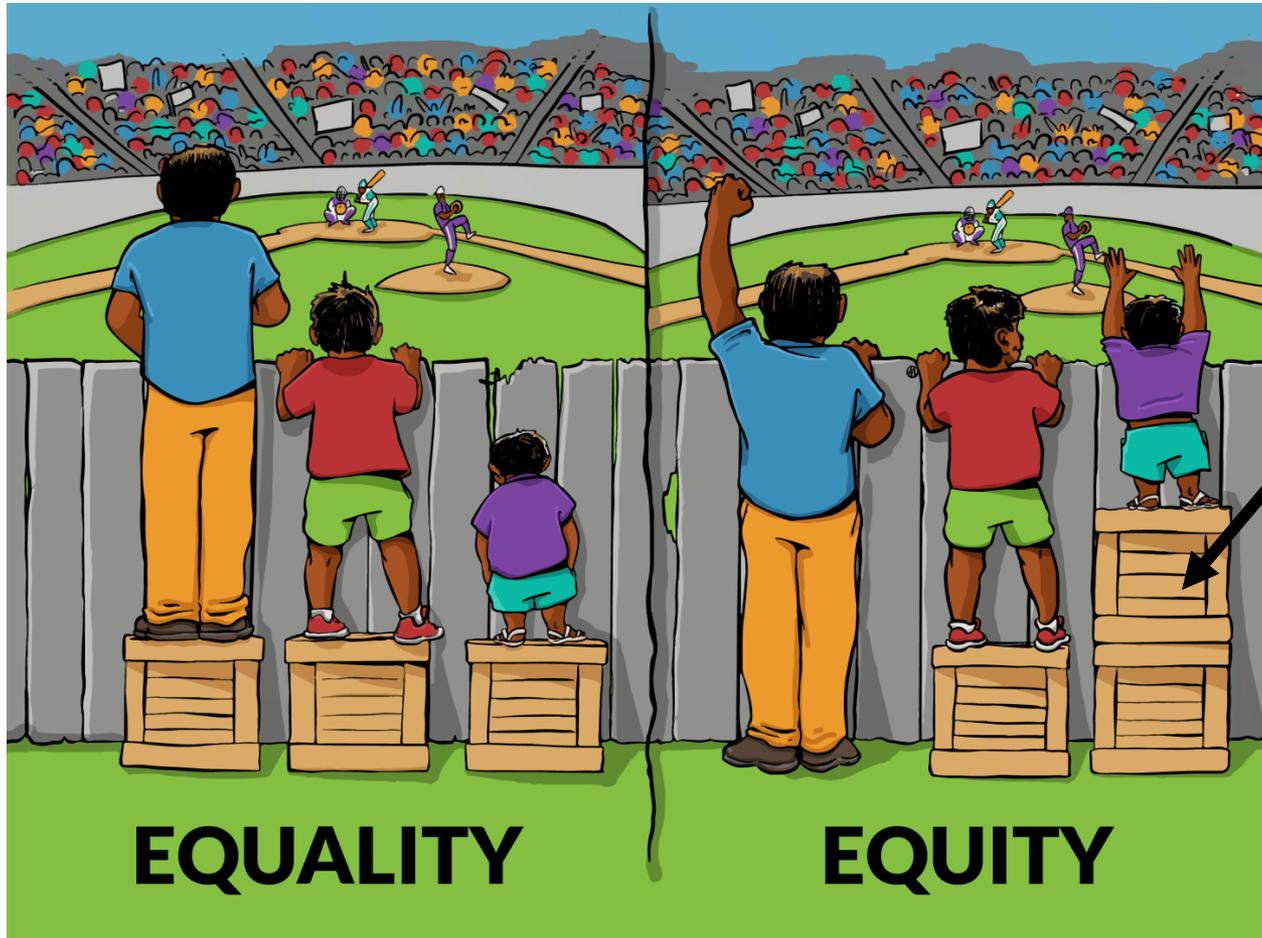
My daughter is poisoning me by putting something in my morning tea

I have a good relationship with God through prayer

# Accessibility of Legal Services

- As a service provider, advocates and the organizations they work for have an obligation under the *Human Rights Code* to provide services in a way that does not discriminate based on aspects of a person's identity recognized under the *Code*
  - Race, colour, ancestry, place of origin, religion, marital status, family status, sex, sexual orientation, gender identity or expression, age, physical or mental disability
- Equal access to services can mean treating people **differently** to remove barriers (that's the only way to ensure meaningful access)
- The barriers people experience are often at the systems level (i.e. baked into how we typically approach or structure our organizations and services)

# Accessibility of Legal Services



Trauma-informed & culturally safe services

Flexibility in how we deliver services so we can respond to client-specific needs

Inclusive services without judgment or shame

# Accessibility of Legal Services

Trauma and violence-informed services

## The Four R's

A trauma-informed program, organization, or system:

**Realizes**

- *Realizes* widespread impact of trauma and understands potential paths for recovery

**Recognizes**

- *Recognizes* signs and symptoms of trauma in clients, families, staff, and others involved with the system

**Responds**

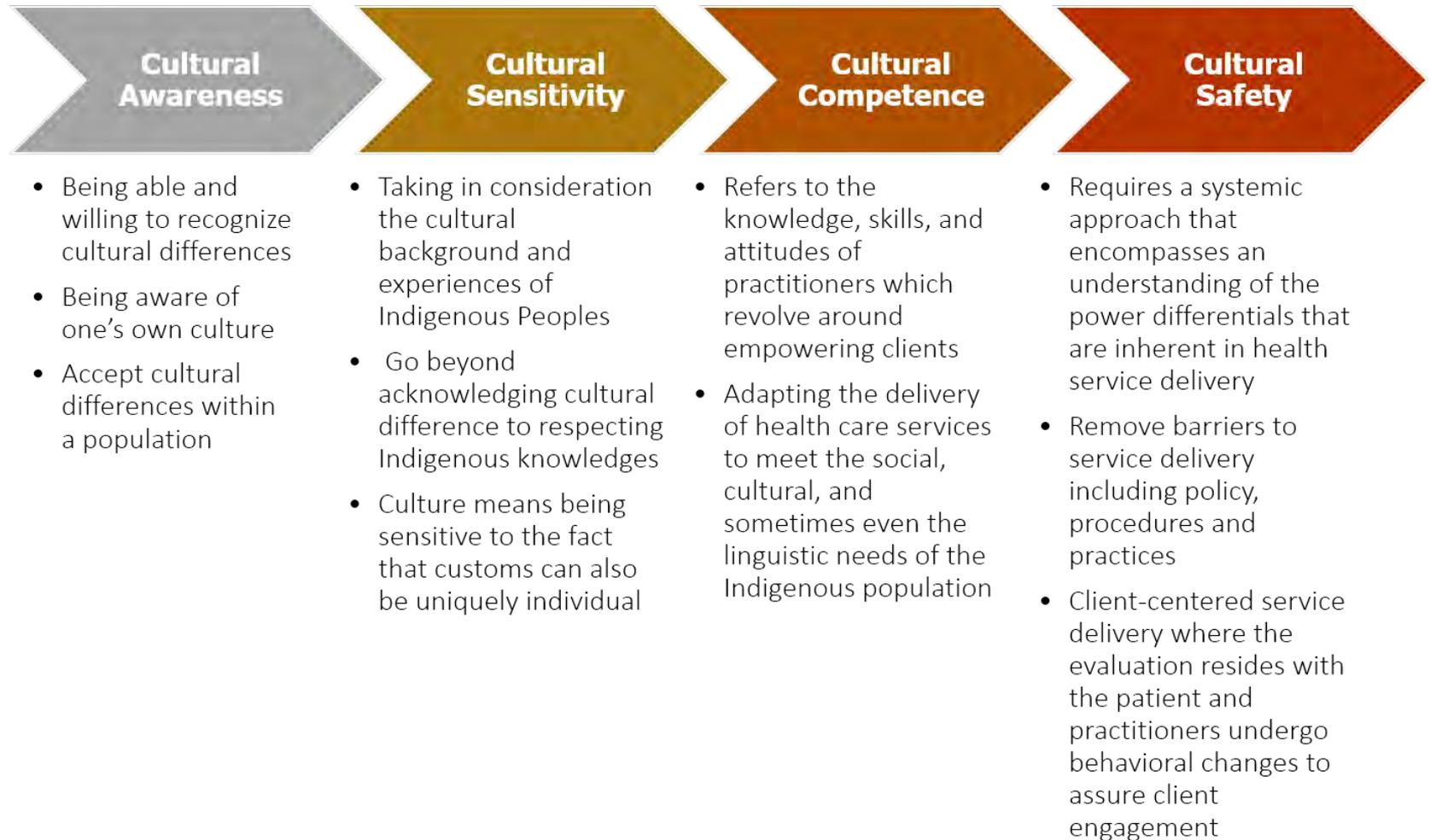
- *Responds* by fully integrating knowledge about trauma into policies, procedures, and practices

**Resists**

- Seeks to actively *Resist* re-traumatization.

# Accessibility of Legal Services

## Culturally safe services



# Accessibility of Legal Services

**Flexibility** in how we deliver services so we can respond to client-specific needs

Ask yourself – and your client – how can I improve access to my legal services?

- Timing of appointments (timing in relation to substance use, medications etc)
- Missed appointments, lateness
- Method of communicating information (in person, phone, in writing, drawing)
- Repetition or putting things in writing
- Language use (and ask if the words you're using are understandable)
- Open ended questions
- Presence of a support person
- Explain things (who sits where, am I supposed to bow, what do I wear, how do I address people)
- Will something make the hearing less stressful (tour of space in advance, video-conference/ screen/ a support person during testimony, clothes, stuffed animal, breaks, food, cigarettes etc.)
- Give space for questions
- Be opened minded about what you can provide!

# Accessibility of Legal Services

**Inclusive** services without  
judgment or shame

- See EQUIP Health Care  
for more details

## TOP 10 THINGS

### Your Clinic, Practice or Department Can Do To Create a Welcoming Environment



Display words or phrases  
in local languages & dialects



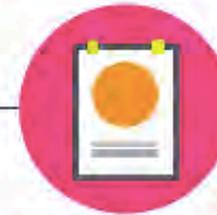
Begin and end every  
phone call with  
"Thank you for calling"



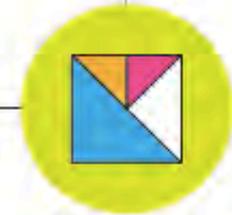
Provide coffee, water or snacks  
to clients while they wait



Create a separate  
waiting area for families,  
women and/or Elders



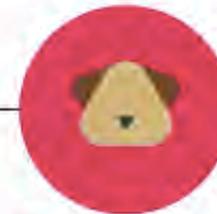
Display posters and signs  
conveying that clients deserve  
to feel welcome and respected



Display local art



Ask patients about basic  
resources like food, clothing  
and shelter



Have a support person,  
Elder, or therapy dog present  
in your waiting room



Seek feedback from clients  
with a survey, comment box,  
or client advisory committee



Tell returning clients  
"It's nice to see you again"

#### How to cite this document

EQUIP Health Care. (2017). Top 10 things your clinic, practice,  
or department can do to create a welcoming environment. Vancouver, BC.  
Retrieved from [www.equiphealthcare.ca](http://www.equiphealthcare.ca)

Version 1 December 2017

# Accessibility of Legal Services

**Inclusive** services without judgment or shame



AVOID LABELS SUCH  
AS THE FOLLOWING:

- > Challenged
- > Crazy
- > Demented
- > Lunatic
- > Normal/not normal
- > Psycho/psychopath
- > Schizo
- > Special
- > Sufferer/victim
- > Wacko

# Accessibility of Legal Services

Inclusive services without judgment or shame

USE RESPECTFUL LANGUAGE THAT DOES NOT DEFINE SOMEONE BY AN ILLNESS:



## INSTEAD OF...

She's bipolar  
Schizophrenic  
Manic depressive  
The mentally ill  
Committed suicide

## TRY...

She has bipolar disorder/She's living with bipolar disorder  
person with schizophrenia  
person with bipolar disorder  
people with a mental illness/mental health condition  
died by suicide



# Accessibility of Legal Services

**Inclusive** services without judgment or shame

**STIGMA** IS ONE OF THE BIGGEST BARRIERS TO TREATMENT AND RECOVERY FOR SUBSTANCE USE DISORDERS TODAY. OFTEN THE LANGUAGE WE USE CONTRIBUTES TO STIGMA. THERE ARE A LOT OF STIGMATIZING WORDS THAT ARE COMMON IN OUR DAY-TO-DAY LANGUAGE.

WHAT YOU SAY	VS	WHAT PEOPLE HEAR
ABUSER		IT'S MY FAULT
DRUG HABIT		IT'S MY CHOICE
ADDICT		THERE'S NO HOPE
DRUG USER		I'M A CRIMINAL

BY CHOOSING ALTERNATE LANGUAGE, YOU CAN HELP BREAK DOWN THE NEGATIVE STEREOTYPE ASSOCIATED WITH SUBSTANCE USE DISORDER.

The infographic features a dark grey background with a horizontal bar at the top containing segments of pink, green, yellow, and blue. The main text is in white and yellow. The central comparison is split into two colored panels: pink on the left and blue on the right, separated by a black circle with 'VS' in white. The bottom text is in white on a dark grey background.

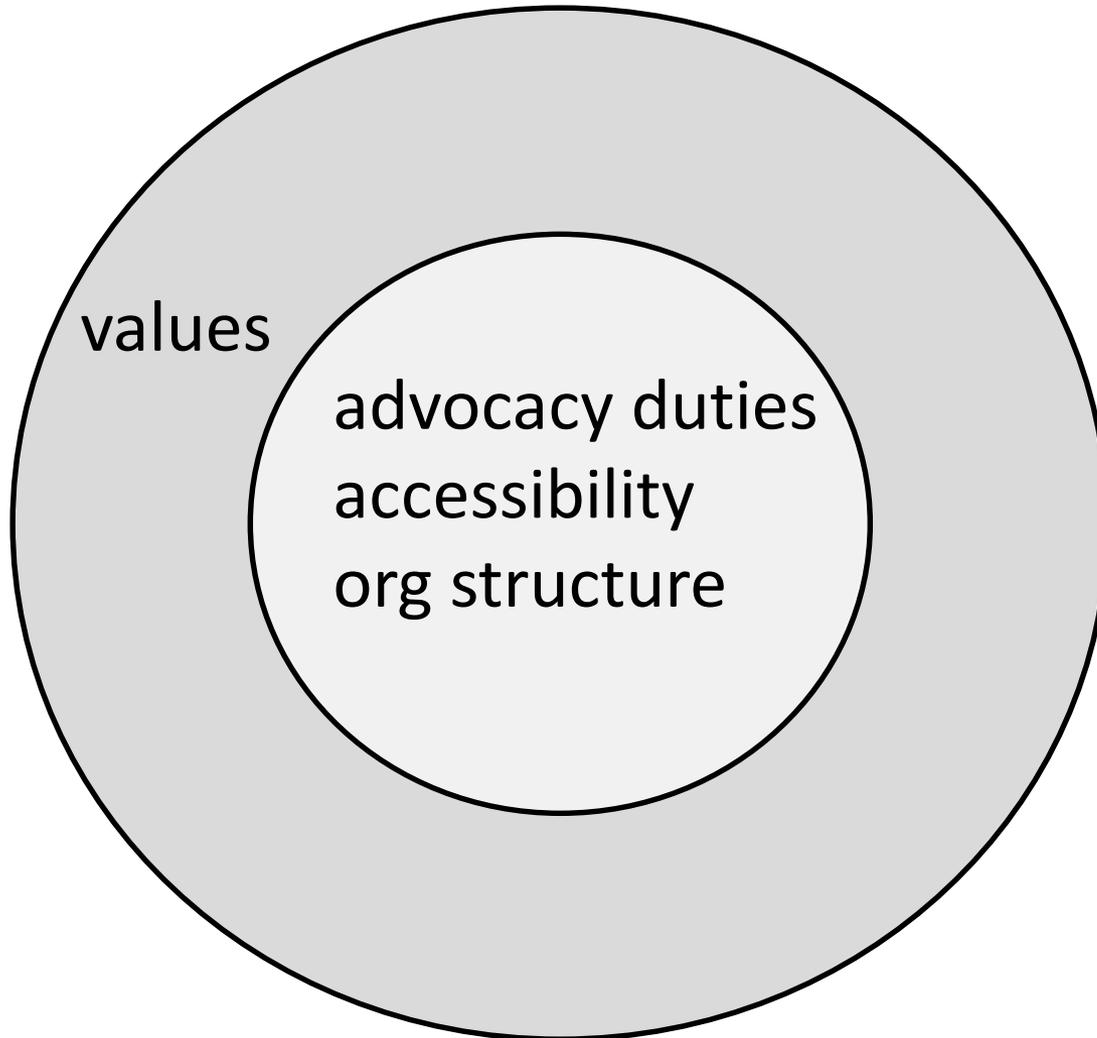
# Accessibility of Legal Services

What does it mean when we don't structure our organizations or our services to be accessible to a group of the population?



Judgments on what is true vs false, delusional vs different, meritorious vs frivolous, accommodatable or not are often informed by culture, spirituality, gender, migrations status, class, lived experiences etc.

# Competing Values



# Competing Values

- Identifying competing values within ourselves and the tension between them
  - I want to help my client vs I believe in my client's autonomy
- What am I uncomfortable with? What am I pushing away from me?
  - Am I recoiling from bizarre thoughts or behaviours?
  - Am I tired or frustrated with my job, or the system?
  - Am I uncomfortable sitting with someone who is suffering where I am powerless to help?
  - Is this client bringing up memories/thoughts/feelings about someone else I have a relationship with (eg. a child, a parent, a friend)?

# Scenario

- A woman comes in for help with a residential tenancy dispute. She says her neighbours are surveilling her through bugs planted all around her apartment. She has been in disputes with the neighbours and complained to the landlord multiple times
- She's been served with a Notice to End Tenancy for cause that she wants to dispute and she wants to make claims for loss of quiet enjoyment because her landlord hasn't done enough to protect her from her neighbours
- This is the third time you've provided services to this client who has lost her housing due to her concerns in other buildings that her neighbours are spying on her
- When she starts talking about how angry she is at her landlord and neighbours, she swears and yells and says she's determined to "get justice with them no matter what she has to do"

## 6. Welfare and Disability Benefits

# Introduction to Canada Pension Plan Disability Benefits

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PRESENTED BY CAITLIN WRIGHT AND DANIEL  
JACKSON OF TOGETHER AGAINST POVERTY  
SOCIETY (TAPS)

# Presentation Overview

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- *Introduction*
- *MSDPR and the CPP-D Recovery Process*
- *Eligibility and Criteria*
- *How to Determine MQP; Group Activity: Calculate MQP*
- *Application for CPP-D*
- *Reconsiderations*
- *Appeals*

# TAPS

*“It is justice, not charity, that is wanting in the world.”*

*~ Mary Wollstonecraft*

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## **TAPS Services**

Tenant Advocacy

Income Assistance Advocacy

Volunteer Disability Advocacy

Employment Standards Advocacy

Public Legal Education

Income Tax Preparation

*Largest anti-poverty group on Vancouver Island*

*Individualized & Systemic Advocacy*

# Ministry of Social Development & Poverty Reduction: CPP-D Recovery

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## The Ministry requests PWD clients apply for CPP-D benefits:

- MSDPR considers itself the “payor of last resort”, and requires clients to exhaust other potential income (e.g.: Medical and Regular EI, CPP-D benefits).
- CPP-D Recovery is an attempt by Province to reduce monthly assistance, and clawback retroactive CPP-D benefits.
- Targets majority of PWD clients at some point, particularly people who’ve recently been approved.
- Can have tight deadlines, complications with completing paperwork, and be very stressful for clients
- **See our handout for more information!**

# The CPP-D Benefit

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- ❑ Base disability/fixed amount (changes yearly due to inflation) + 75% of client's CPP contributions over their working lifetime.
- ❑ 2018 base amount is \$485.20; maximum monthly benefit is \$1335.83.
- ❑ Children's benefit (for dependant children) 2018 flat rate is \$244.64.
- ❑ Contrast with PWD: total amount for single individual is \$1183.42, with 1 dependant child is \$1519.08
- ❑ Therefore, everyone's CPP-D benefit will be different – no standardized rate tables.

# What CPP-D Isn't:

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- ❑ No medical coverage
- ❑ No additional supplements (health, nutritional, transportation)
- ❑ Not income-tested
- ❑ Minimal reporting duties, except around working
- ❑ It is taxable income



# How to Estimate CPP-D Benefit Amount

---

- Easiest method is to look at client's estimated retirement pension at age 65 (through MyService Canada Account or at bottom of mailed Statement of CPP Contributions) and multiply by 75% then add fixed amount.
- If Jane Doe's estimated CPP pension at 65 is \$250 per month, then....
  - $\$250 \times .75 + \$485.20 = \underline{\$672.70}$
  - Well below PWD rates
  - Overall, the clients we serve at TAPS have moderate to low CPP-D monthly benefit amounts, often because:
    - They've been living in chronic poverty/unable to work due to medical conditions
    - Disabled people are more likely to be underemployed, earn less, and have more tenuous job security than able-bodied people.

# Eligibility Criteria for CPP-Disability Benefits

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Canada Pension Plan Disability -> Department of  
Employment and Social Development Canada

- ❑ have a *severe* and *prolonged* disability
- ❑ be under the age of 65
- ❑ meet the contributory requirements for CPP

Severe: disability is severe if it renders a person incapable regularly of pursuing any substantially gainful occupation,

Prolonged: likely to be “long continued” **and of** “indefinite duration” **or** result in death.

[Canada Pension Plan Adjudication Framework:](#)

# “Substantially Gainful”?

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**68.1 (1)** For the purpose of subparagraph 42(2)(a)(i) of the Act, *substantially gainful*, in respect of an occupation, describes an occupation that provides a salary or wages equal to or greater than the maximum annual amount a person could receive as a disability pension. The amount is determined by the formula:

$$(A \times B) + C$$

where

**A** is .25 × the Maximum Pensionable Earnings Average;

**B** is .75; and

**C** is the flat rate benefit, calculated as provided in subsection 56(2) of the Act, × 12.



# Eligibility Continued

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## *Why 65?*

Despite the name, receiving CPP-D benefits does not mean an applicant is drawing on their pension.

Unable to receive both CPP and CPP-D benefits at the same time.

*What if a client has started to receive CPP, but due to deteriorating medical conditions, would benefit from CPP-D instead?*

- CPP pension can transition into CPP-D given specific criterion are met:
  - Still under 65
  - Deemed to be disabled **prior** to start of receiving CPP pension
  - They have been receiving CPP pension for less than 15 months at the time they applied for CPP-D benefits
  - Meet CPP contribution requirements

# Minimum Qualifying Period (MQP)

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The Minimum Qualifying Period is the *minimum* amount of time a person is required to work and contribute to CPP during their working life-time (known as the contributory period) prior to becoming disabled.

**The current MQP rules are as follows:**

**If your client worked for less than 25 years then they need to have worked and contributed to CPP 4 out of the last 6 years.**

**If your client worked for over 25 years, they need to have contributed 3 out of 6 years.**

# Is the MQP Realistic or Fair?

---

Is it realistic that after a period of working for several years, a person experiencing severe medical impairments and impacts to their ability to work will immediately stop all work and apply for CPP-D?

Why not?

- may turn to EI or Medical EI first
- may not know about CPP-D or be overwhelmed by process
- may apply for welfare/Income Assistance
- try and work sporadically as their disabilities allow; if a family, live off 1 income for a while
- can be difficult to reconcile their experiences with the criteria: unable to do any type of work for an indefinite amount of time...forever?

# *“What If My Client Stopped Working Years Ago and It’s Now Too Late to Apply?”*

---



- ❑ Various provisions that could potentially mitigate lateness of application or low contributory years

# Child Rearing Provision

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- ❑ Meant to assist a parent who stayed home/out of workforce to raise child(ren) (up to age 7)
- ❑ Can be claimed by both parents of child(ren), however not for same period of child-rearing.
- ❑ Will not address MQP or improve likelihood of being approved for CPP-D, but could increase overall amount of benefit
  - ❑ By dropping/cancelling low-earning months during years of child-rearing and providing pension credits
  - ❑ Protecting value of CPP earnings during period of low earnings



# Credit Split Provision

---

- If your client was the lower-earning spouse/common law partner during a relationship, they may be able to apply for a credit split which means they will share credits equally with their former partner.
- Sharing = mirroring, so both individuals would have the higher-earning person's contribution years and contribution amounts for the years the Credit Split is approved for.

- Can be contentious!



# Living or Working Outside Canada

---

- Your client may be able to use pension credits/amounts from another country to help qualify for CPP-D benefits.
- Only really possible if there is a pension-sharing agreement between Canada and that country.



# The Late Applicant Provision

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- You have enough years of CPP contributions when you first became severely disabled and...
- You have been continuously disabled from that time up until present.
- Look at the Statement of Contribution to determine the *most recent* period of six years where your client made the minimum CPP contributions for either 4 or 3 years (do not have to be consecutive years).
- Why most recent?
  - Potentially more/better medical evidence
  - Less likely to have had interruptions in healthcare/not having a doctor
  - Client's memory and ability to submit a stronger application

# Group Activity!

---

**In pairs, review the four different Statement of CPP Contributions provided and determine:**

a) Has the client made the minimum required contributions to apply for CPP-D?  
(Remember the 3/6 and 4/6 rule)

b) Is the client a Late Applicant?

c) What is the client's MQP?



# Application Forms for CPP-D Benefits

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- The Application (completed by the client)**
- The Medical Report (completed by a physician or nurse-practitioner)**
  - Both forms include consents for Service Canada to contact potential third-parties to obtain/verify information, including but not limited to: health care professionals, former employers, former partners, educational institutions, provincial government, etc.)**

# The Application (Client)

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- *Personal Information (name, DOB, address, marital status, etc.)*
- *Self-report diagnoses and medical conditions, use of assistive devices, any hospitalizations, medications, former or future treatments*
- *Functional assessments: Physical, Behaviours/Emotional, Communication and Cognitive, Daily Living Activities*
- *Information of current/most recent employment and employment up to six years prior*
- *Educational attainment & bank information*
- *Information on dependant children or children in the custody of others (to potentially qualify for Children's Benefit)*

# Important To Remember!

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- *This information will have to be BACKDATED if your client's MQP is in the past!*
- *Remember our examples?*
- *For Client #1, their MQP is from 2007-2012*
  - *They are a Late Applicant*
  - *They must prove they have been continuously disabled since the end of 2012!*
  - *Complete both client Application and Medical Report with information from 2012 (e.x.: what medications they were taking, what symptoms they were experiencing, where they worked, what conditions they had and their restrictions, etc.)*

# The Medical Report

---

- ❑ ***Physician or Nurse-Practitioner:***

- Diagnoses, restrictions/limitations*

- Medications, treatments, responses*

- Prognosis, expected duration, frequency*



- ❑ ***Does doctor/NP recommend patient stops working?***

- ❑ ***Expected return to work date?***

- ❑ ***What type of work (usual, modified, other type that requires retraining)***

- ❑ ***Again, if your client is a Late Applicant, the Medical Report will need be based on backdated information; this can be tricky to explain to physicians/NP's.***

# What Makes a Strong Application?

---

## NOT A LATE APPLICANT!

- The longer in the past your client's MQP, the increased need for strong/unbroken medical evidence
- Client's cognitive capacity/memory
- Increased pressure for your client to prove continuous disability since end of MQP

## OTHER BARRIERS

- Best that your client is not working at time of application.
- If they are working, is it modified or heavily accommodated?
- Personal characteristics taken into account: higher education, volunteer work, caretaking for relatives all factor into ESDC's determination of "work capacity";
- Ongoing treatment options;
- Non-contributory work.

“What if my client’s MQP ended multiple years ago, but they had some years of contributions/earnings after-the-fact?”

---

- ❑ *A barrier to proving continuous disability – but not insurmountable!*
- ❑ *Burden on client to prove detail in their application that employment was:*
  - not substantially gainful*
  - not regular, consistent*
  - modified/heavily accommodated*
  - no realistic expectation that same work environment could be replicated elsewhere*
  - a “benevolent employer”*

# Key Questions to Ask Your Client After End MQP

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- Did you job share?
- Did you have a flexible schedule?
- Were you frequently late/missed shifts/had medical leaves?
- Were there workplace accommodations (equipment/personnel, space, etc.) required as a result of your disability?
- Were you fired/let go due to frequent absenteeism?
- Were there aspects of the job that you couldn't do?
- Was the job modified?
- Have you had to quit school/training due to disabilities? Or stop volunteer work?

# Reconsideration

---

## **Mandatory:**

- Apply within 90 days of receiving the written decision;**
- Submit signed Reconsideration request;**
- Wait.**

## **Best practices:**

- Request entire CPP-D file via Access to Information & Privacy (ATIP) Online Request;**
- Acquire additional medical evidence;**
- Submit written argument.**

# Social Security Tribunal (General Division)

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- 90 Days to request an appeal (with copy of reconsideration decision)
- Evidence
- Notice of Readiness
- Hearings
  - Format
  - Evidence
  - Cross-examination

# Conclusion

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- ❑ Have client create MyServiceCanada Account – can save a lot of time and get pertinent information re: contributions.
- ❑ Pay attention to MQP – while client may be more disabled now as time as progressed vs. when they first stopped working/contributing it won't matter! Denials often cite “still had capacity to work in year x” despite clients often having extremely disabling conditions/restrictions now.
- ❑ Remember to backdate information if client is a Late Applicant.
- ❑ Try and mitigate work attempts by showing if/how client's work was modified and accommodated, and unlikely to be replicated in another workplace.
- ❑ Ask client to get copies of old medical and employee files (through Health Authority or Office of the Information and Privacy Commissioner for BC)

# Questions?

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# CPP-D Recovery Process

The Ministry of Social Development and Poverty Reduction (MSDPR) has sent me a letter, asking me to inquire about applying for federal disability benefits (Canada Pension Plan Disability, or CPP-D). In order to continue receiving PWD assistance, you must complete and submit all requested documents to The Ministry.

Obtain a copy of your Statement of CPP Contributions.

Sign the MSDPR's Consent to Payment and Deduction form (ISP1613)

Submit these documents to MSDPR.

In 3-4 weeks you may receive another letter and package from MSDPR, asking you to complete an application for CPP-D benefits. The package includes: the CPP-D Application form and the Medical Report.

If your PWD application has been signed by a physician within the last 12 months, MSDPR will send a consent form which allows your PWD application to be used instead of a Medical Report.

If the physician signature on your PWD application is more than 12 months old, you will need to get the Medical Report completed by a physician or nurse practitioner.

After you submit the application for CPP-D and the Medical Report to MSDPR, they will send these forms to the federal government.

In several months time, you will receive a decision letter.

It is the *client's* responsibility to tell the Ministry of the outcome.

If you start to receive CPP-D benefits, you must declare this income on the Ministry's Monthly Report by the 5th of the following-month.

## On PWD?

# Here's What You Need to Know About MSDPR's CPP-D Recovery Program

- In order to remain eligible for ongoing assistance from the Province, you must complete and submit all requested documents to the Ministry. If you are on PWD and are then approved for CPP-D benefits, your total monthly assistance should not change. However, as a new amount will be coming from the Federal government, a reduced amount will now be coming from the Province.
- To get a copy of your Statement of CPP Contributions:
  - A. Send a letter to Service Canada asking for a copy (takes 3-4 weeks):

Contributor Client Services  
Canada Pension Plan  
Service Canada  
PO Box 818 Station Main  
Winnipeg MB, R3C 2N4

**or**
  - B. Create a MyService Canada Account online and print off a copy of your Statement of Contributions. Ask staff at your local Service Canada office for help creating your account.
- *Consent to Payment and Deduction* (ISP1613): CPP-D benefits can be retroactive for up to 12 months. If during this period you were receiving either Income or Disability Assistance, the Ministry wants to be “paid back”. You will not owe the Ministry any money out-of-pocket. However, this retroactive amount will automatically be sent to the province if you have signed form ISP1613. In order to remain eligible for ongoing assistance from the Ministry, a client *must* sign this consent form.
- If you need help to complete this form, go to **Povnet.org** and “Find an Advocate” for a directory of advocacy organizations in your geographic region.
- You can call the Ministry of Social Development and Poverty Reduction at 1-877-815-2363 (option 3) to ask for an extension if you need more time to complete and submit the request forms.

## The CPP-Disability Recovery Program for People on PWD.

# Ministry of Social Development and Poverty Reduction Update

Presented to: 2019 Provincial Training Conference  
for Legal Advocates

Date: October 9, 2019

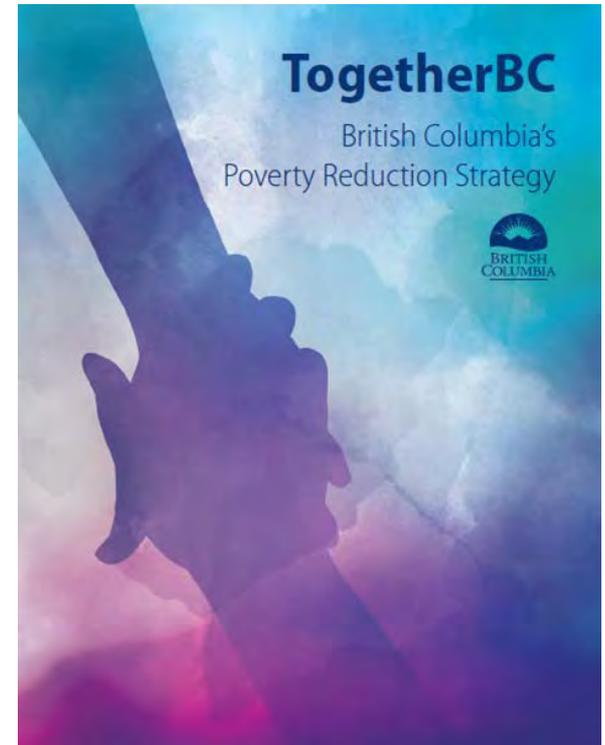


# Agenda

- TogetherBC Policy Changes
- Accessibility Legislation
- Service Delivery Update
- How to be Involved
- Complaint Resolution Process
- Ministry Contacts
- Action on Homelessness

# TogetherBC

- British Columbia's first poverty reduction strategy, TogetherBC, outlines programs and initiatives that will help reduce overall poverty in the province by 25%, and cut child poverty in half, over the next five years.
- This is a cross-government strategy involving 16 different ministries along side many agencies.



# July 1, 2019 Policy Changes

- Decrease the work search from five weeks to three weeks
- Eliminate the “transient” client category
- Remove \$10,000 limit on primary vehicle
- Increase asset limits for people on income assistance

TogetherBC  
Policy  
Changes

TogetherBC

British Columbia's  
Poverty Reduction Strategy



# July 1, 2019 Policy Changes

- Providing the same level of assistance to clients paying room and board to a parent/child
- Expand access to the identification supplement
- Expand the moving supplement for clients to move anywhere in B.C.
- Expand access to Persons with Persistent Multiple Barriers (PPMB)

TogetherBC  
Policy  
Changes

TogetherBC

British Columbia's  
Poverty Reduction Strategy



# Expanded Access to PPMB

## ACCESS

**Pre July 1<sup>st</sup>: 12 of 15 Months Waiting Period**

**Post July 1<sup>st</sup>: No Waiting Period**

## ELIGIBILITY

**Pre July 1<sup>st</sup>: Two sets of criteria**

**Post July 1<sup>st</sup>: Simplified criteria**

**Pre July 1<sup>st</sup>: Medical Condition, excluding addictions**

**Post July 1<sup>st</sup>: Health Condition, including addictions**

# Expanded Access to PPMB CONTINUED

## ASSESSMENT

**Pre July 1<sup>st</sup>: Complex Assessment of Barriers** using an Eligibility Screen with a score greater than 15, **with requirement** to take all reasonable steps to overcome the barriers.

**Post July 1<sup>st</sup>: Simplified Assessment with Expanded Barriers**, that is self reported, **no requirement** to take all reasonable steps to overcome the barrier(s)

## FORMS

**Pre July 1<sup>st</sup>: Multiple Forms and Assessments**

**Post July 1<sup>st</sup>: One Form – PPMB Application**

**Pre July 1<sup>st</sup>: Medical Report** from a Medical Practitioner

**Post July 1<sup>st</sup>: Health Assessment** from a health professional

# PPMB Application

- 5 page document (Page 4 is blank)
- Section 1 Health Assessment (Page 1 to 3):
  - Part A: Personal Information
  - Part B: Authority to Release Information
  - Part C: Health Assessment (to be completed by Health Professional)
  - Removable part for the Health Professional Invoice
- Section 2 Applicant Self Assessment (Page 5):
  - Part A: Personal Information
  - Part B: Barriers to Employment (to be completed by Applicant)
  - Declaration and Notification by Applicant

Page 1

Page 2

Page 3

Page 5

<https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/policies-for-government/bc-employment-assistance-policy-procedure-manual/forms/pdfs/hr2892.pdf>

# Proposed January 1, 2020 Changes

- No longer requiring clients to apply for early CPP (Canada Pension Plan)
- Eliminating the 2 year independence rule
- Modernizing the definition of spouse

TogetherBC  
Policy  
Changes

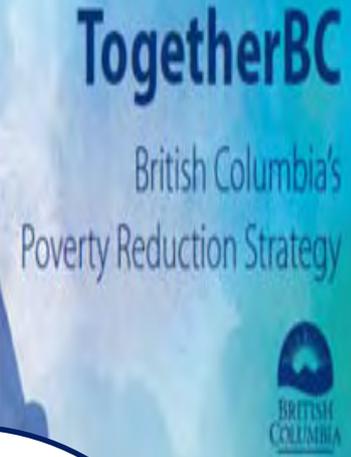
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# Proposed January 1, 2020 Changes

- Ensuring document requirements do not create homelessness
- Enabling maximum repayment amounts
- Clarifying the rules for admissibility of evidence at the appeal stage

TogetherBC  
Policy  
Changes



# Accessibility through legislation

BC has begun developing accessibility legislation

Public consultation

Sept 16 to Nov 29, 2019

British Columbia  
Framework for  
Accessibility Legislation



Consultation information available online at

<https://engage.gov.bc.ca/accessibility>

## Statement from the TogetherBC Report

The Ministry of Social Development and Poverty Reduction exists to provide services to people trying to overcome social and economic barriers. These services should make life better for people, allowing them to access the supports they need while being treated fairly and with dignity.

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# Our Commitment to Service

We commit to meeting your needs by providing you with service that is:

- » reliable and accessible
- » responsive and accurate
- » fair and impartial
- » respectful and courteous

The ministry provides a variety of options to citizens for accessing information, assistance and services, including: online, in person and over the phone.



**Online, 24 hours a day**



**In Person**



**Phone**



**Mail**

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# Service Standards

There are fluctuations with wait times, response, and decision times that can happen throughout the year (for example, cheque issue week).

The target is to meet service standards at least 80 per cent of the time.

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## Applying for Assistance

After you have applied for assistance, the ministry will contact you about the application within:

- » **5** business days, except as follows:
  - if you are fleeing abuse **1** business day, or
  - if you have an immediate need for food, shelter or urgent medical attention **1** business day

## Access to Phone Service



Calls answered in  
**10** minutes or less

## Service Delivery Timelines

Once you submit all the required documentation to the ministry, decisions on the following services will be provided within:

- » Persons with Disabilities (PWD) Designation Determination
  - **45** business days
- » Persons with Persistent Multiple Barriers (PPMB)
  - **10** business days
- » Request for Reconsideration (after a signed request has been submitted)
  - **10** business days
  - **20** business days when an extension has been granted

# Ministry of Social Development and Poverty Reduction Daily Contact Centre Wait Times

August 2019

Date	Shortest Average Wait Time	Longest Average Wait Time	Average Wait Time	Service Level 1	Service Level 2
Thursday, August 1, 2019	0:02:39	0:23:10	<b>0:09:50</b>	53.0%	51.0%
Friday, August 2, 2019	0:02:52	0:53:20	<b>0:30:38</b>	8.2%	4.2%
Monday, August 5, 2019 – STAT	–	–	–	–	–
Tuesday, August 6, 2019	0:03:41	1:20:30	<b>0:59:40</b>	9.6%	2.5%
Wednesday, August 7, 2019	0:03:18	0:45:42	<b>0:26:11</b>	8.4%	4.0%
Thursday, August 8, 2019	0:01:47	0:26:47	<b>0:13:33</b>	32.3%	29.7%
Friday, August 9, 2019	0:01:38	0:41:03	<b>0:21:54</b>	24.4%	20.7%
Monday, August 12, 2019	0:03:03	1:06:18	<b>0:39:31</b>	8.5%	3.6%
Tuesday, August 13, 2019	0:02:19	0:20:57	<b>0:11:42</b>	33.7%	30.6%
Wednesday, August 14, 2019	0:00:21	0:19:44	<b>0:08:51</b>	56.0%	54.2%
Thursday, August 15, 2019	0:00:09	0:08:50	<b>0:04:50</b>	94.4%	92.2%
Friday, August 16, 2019	0:02:14	0:33:55	<b>0:21:38</b>	14.5%	10.4%
Monday, August 19, 2019*	0:03:03	0:34:51	<b>0:22:51</b>	8.9%	5.2%
Tuesday, August 20, 2019*	0:00:19	0:16:11	<b>0:05:37</b>	84.8%	83.3%
Wednesday, August 21, 2019*	0:00:10	0:43:50	<b>0:27:14</b>	15.0%	11.0%
Thursday, August 22, 2019*	0:00:08	0:21:52	<b>0:10:08</b>	48.0%	45.8%
Friday, August 23, 2019*	0:02:47	0:24:34	<b>0:15:50</b>	14.5%	10.5%
Monday, August 26, 2019	0:02:47	0:38:41	<b>0:24:34</b>	9.7%	5.8%
Tuesday, August 27, 2019	0:00:07	0:13:44	<b>0:06:02</b>	82.0%	80.7%
Wednesday, August 28, 2019	0:00:08	0:09:33	<b>0:04:23</b>	95.4%	93.8%
Thursday, August 29, 2019	0:00:15	0:13:30	<b>0:04:45</b>	86.0%	84.6%
Friday, August 30, 2019	0:03:16	0:39:51	<b>0:24:04</b>	8.1%	4.2%

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# Service Satisfaction

## 2018 Client Satisfaction Survey

Response  
Rate 8.1%



6.7%  
increase  
from 2016

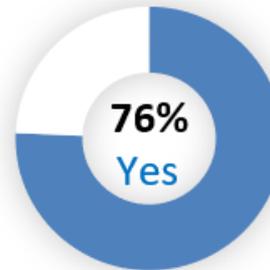
11,852 clients responded

## ICE Survey

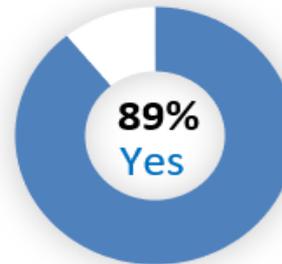
8500 Responses

(November 2018 – August 2019)

Question 1: I was satisfied with the amount of time it took to get service



Question 2: Overall, I found the Ministry worker was respectful



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# Duty to Accommodate

- Supports accommodating specific needs and is applied at all points of contact with an applicant or recipient
- Can add an Accommodation Alert to a client file which documents a client's specific accommodation needs required
- Examples include:
  - Client uses a wheelchair and requests contact be through MySelfeServe or phone to avoid travel to local office
  - in-person help completing monthly reports
  - additional time and help gathering required documents
  - assisting an applicant to complete the online application
  - assisting with requests for crisis supplements
  - applying for the Persons with Disabilities designation.

More information available at:

<https://www2.gov.bc.ca/gov/content/governments/policies-for-government/bcea-policy-and-procedure-manual/case-administration/individual-case-management>

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# Community Integration Specialist

- 72 new positions created, called Community Integration Specialist (CIS) across the province
- CIS workers supporting B.C.'s most vulnerable citizens
- CIS team works as a bridge between people in need and the services that can support them
- Services are tailored to the needs of each community

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# How to be Involved

- Moving Forward Steering Committee (MFSC)
- 3 Active sub-committees of MFSC:
  - CPP Disability sub-committee
  - 3189A Consent Form sub-committee
  - PLMS sub-committee
- Monthly Geographic grouped Advocate Calls



# Complaint Resolution Process

1

1-866-866-0800 **OR**

Advocate Client Enquiry (ACE)

1-855-771-8704 and/or Email at  
SDSI.AdvocateClientEnquiries@gov.bc.ca

2

Supervisor

3

Community Relation & Service  
Quality Managers

## Complaint Resolution Process

We are committed to listening and addressing your service concerns at the first point of contact.

*If you have a complaint about the service, we want to help!*

You can ...



# Other Ministry Contacts

- Reconsideration Branch
  - Phone: 778-698-7750
  - Fax: 855-771-8784

# Office for Homelessness Coordination

- Support a coordinated approach across government and in the community
- Informed by relationships with a range of partners, including front line service providers
- Areas of focus:
  - Policy and research
  - Coordination
  - Implementation of actions

**Action On  
Homelessness**

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# Office for Homelessness Coordination



**Action On  
Homelessness**



# Housing projects since 2017

- **2,200** modular supportive housing units;
- **2,500** units of permanent supportive housing for people who are homeless or at risk;
- **1,500** transition house units for women and children fleeing abuse;
- **1,750** social housing units for Indigenous people

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# Office for Homelessness Coordination

- RAP/Safer maximum amounts were increased and the eligibility ceiling was raised
- Homelessness Community Action Grants
- Province-wide Rent Bank
- 2020 provincial homeless count
- Homelessness Action Week (Oct 13-19)

**Action On  
Homelessness**

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# Ongoing

The Poverty reduction strategy is just the beginning of the work we're doing.

It's a document that will guide us in our efforts to reduce poverty in B.C. We'll be working with all sectors, community organizations, businesses, labour organizations, Indigenous people and all levels of government to implement these important changes.

## TogetherBC

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# Thank you

# Questions

Email:

[Cary.Chiu@gov.bc.ca](mailto:Cary.Chiu@gov.bc.ca)

[Dana.Jensen@gov.bc.ca](mailto:Dana.Jensen@gov.bc.ca)

[Anita.LaHue@gov.bc.ca](mailto:Anita.LaHue@gov.bc.ca)

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October 9<sup>th</sup> 2019

# Long Term Disability Applications & Appeals

**Martin Willemse**

*Partner, McQuarrie Hunter LLP*

**Nyssa Lessingham**

*Law Student at University of Victoria; previous Advocate at the MS Society*

# Overview

- What are Long Term Disability benefits?
- The life of an LTD claim
  - Eligibility Criteria
  - Change in Definition
  - Application
  - Adjudication
  - Internal appeals
  - When to seek legal advice
  - Rehabilitation
  - Settlement
- Pre-existing condition clauses
- Limitation period
- Resources for advocates & clients
- Questions

## What are Long Term Disability Benefits?

- Long Term Disability (LTD) is a monthly income replacement paid to individuals who cannot work due to disability
- Disability Insurance is a product sold by insurance companies
  - Ex. Great West Life, Sun Life, Manulife
- Long term disability policies are “peace of mind” contracts
- Individuals may have coverage through employment (group) or through private / individual policies
- Advocates can provide support to individuals applying for benefits under an LTD insurance policy
- *Ultimate Guide to Long Term Disability Benefits in Canada*  
<https://www.resolutelegal.ca/long-term-disability-benefits>

# The Life of an LTD Claim

- Application to the insurer (making a claim)
- Adjudication
  - If approved, regular monitoring:
    - Requests for updates
    - May include surveillance
    - May include independent medical examinations
  - If denied, seek legal advice
    - Can appeal internally with advocate's help
    - May need to hire a lawyer to litigate
- Change in Definition
  - Usually after 2 years
- Settlement
  - Lump sum payouts
- Rehabilitation

## What to Consider When Applying for LTD

- Resolute Legal's *Sick Leave Guide: How to Avoid the 4 Most Common Mistakes* <http://tiny.cc/8xtvbz>
  1. Make sure the client is aware of all their benefits
  2. Gather proof of disability before leaving work
  3. Assist the client to describe their disability clearly
  4. Notify employer about medical challenges before leaving work
- All LTD policies have a waiting period – benefits are not paid right away (other than an individual policy where an ancillary rider may be bought to eliminate the waiting period)
  - The standard for LTD is 119 days (4 months)
- Your client may have Short Term Disability (STD)
  - “Weekly indemnity”
- If not, they should apply for EI Sickness benefits (15 weeks maximum)

## Eligibility Criteria

- LTD coverage must be in effect – effective date is often 90 days after employment begins
  - Coverage usually ends at age 65
- Completed Elimination Period (usually 119 days)
- Provide satisfactory proof of “*total disability*”
- Receive regular medical supervision/treatment from appropriate physician
- Must meet the contractual definition of “actively at work” at time of disability

## Definition of *Total Disability*

- The definition of *total disability* depends on the language used in the specific policy
- It relates to the claimant's ability to perform the duties of their own occupation / own job
- Normally, this definition applies for the first 24 months of being on claim

## Change in Definition

- The definition of *total disability* typically changes after the first 24 months on claim
- This is called the *Change in Definition*
- After the change, the definition relates to the claimant's ability to do *any occupation* (per the contractual definition), not just their own
- The claimant must demonstrate that he/she meets this new definition of disability to continue to receive LTD benefits
- Insurer may request new medical and self-report info
- Insurer may conduct a transferable skills analysis to assess the claimant's vocational strengths
- At this point, many claimants will have their employment terminated if they continue on LTD
  - Frustration of employment contract
  - Depends on context (union / non union)

Example:

**Definition of “Totally Disabled” in respect of the LTD benefit:**

**During the first 24 months** of benefit payments, you must be unable to perform the essential duties of your own occupation as a result of injury or illness and you must not be working at any job. Availability of your own occupation is not relevant when assessing disability from your own occupation.

**After that**, you must be unable to perform the essential duties of any occupation that you're qualified to do or that you might reasonably become qualified for through education, training or experience with earnings equivalent to the benefit amount provided under this plan. Availability of occupations is not relevant when assessing total disability from any occupation.

## Pre-existing Condition Clause

- Most LTD policies include a clause or exclusion that speaks to pre-existing medical conditions
- How this impacts a client's eligibility for benefits depends on the language used in the policy

## Example:

We do not pay benefits if your disability results directly or indirectly from a condition which existed on or before the date of coverage began. However, this limitation will not apply to you if:

- you have been actively working continuously and covered for Long-Term Disability for any 13 consecutive week period within the first 12 months after coverage began and during this time you have not been treated by a doctor, or any medical personnel under the direction of a doctor, for the condition, or
- you became totally disabled more than 12 months after your coverage began.

## The Application

- Client needs to notify employer they are leaving work
- Apply for Short Term Disability (STD) or EI Sickness
- Time limit to submit notice of claim and proof of claim
- Request policy if client does not already have it
- Request application forms
  - Claimant form (advocates can help!)
  - Doctor's form / medical report
  - Employer's form
- All should be submitted prior to end of the elimination period (refer to policy for specifics)
  - May need to be submitted by the 60 or 90 day mark
- *How to Make a Disability Claim in Canada: A Step-By-Step Guide:* <https://www.resolutelegal.ca/blog/making-disability-claim-canada>

# Plan Member's Statement Claim for Long-Term Disability benefits



Sun Life Assurance Company of Canada (Sun Life), a member of the Sun Life Financial group of companies, is committed to keeping your information confidential.

Clear

## 1 Plan Member information

In order to avoid any delays in the assessment of your claim, we also require the Plan Sponsor's and Attending Physician's Statements to be submitted. **Any cost for information to substantiate this claim will be your responsibility.**  
If disability benefits under your Long-Term Disability Plan are taxable, your Social Insurance Number is required for the issuance of the applicable tax information slip(s).

First name	Last name	<input type="checkbox"/> Male <input type="checkbox"/> Female	Date of birth (dd-mm-yyyy)
Address (street number and name)		Apartment or suite	
City	Province	Postal code	
Occupation	job title	Social Insurance Number	
Home telephone number	Alternate telephone number		
What province were you living in at the time your coverage became effective under this plan?	Preferred language of correspondence <input type="checkbox"/> English <input type="checkbox"/> French		

If you would like Sun Life to email you, please fill in your email address below. By giving us your email address, you are allowing Sun Life to communicate with you at this address, and acknowledge that the security of the email communication cannot be guaranteed.

Email address:

## 2 Plan Sponsor information

Contract number	Member ID	Company name	
Contact person	Contact person email	Contact person phone number	

## 3 About your illness or injury

1. Please describe your present illness or injury and how it occurred.

Date (dd-mm-yyyy)

2. When did your symptoms first appear?

3. Have you ever had the same or similar illness or injury?  No  Yes If yes, please explain and give dates.

## 3 About your illness or injury (continued)

4. On what date did you first see a doctor for this illness?  Date (dd-mm-yyyy)  
If there was a delay in seeking treatment, please explain and provide dates.

5. From what date did your illness or injury prevent you from working?  Date (dd-mm-yyyy)  
6. What treatments are you presently receiving (medications, physiotherapy, psychotherapy, etc.)?

7. List all the doctors you have seen for this illness or injury and any doctors you plan to see in the near future about this illness or injury.

Doctor	Address	Date of visit (dd-mm-yyyy)

Please include copies of any physician reports, specialist reports, test results or investigations you've had done. If you've had any genetic testing completed, please do not include this information as it is not required for our assessment of disability.

8. When do you expect to be able to return to work?  Date (dd-mm-yyyy)  Full-time  Part-time  
9. Please include a list of the duties of your job that you are unable to do.

10. Have you tried to return to work already?  No  Yes If yes, please answer the following questions.

What were the dates that you returned to work? From  Date (dd-mm-yyyy) to  Date (dd-mm-yyyy)  
Did you return to:  your own job  new job or modified duties  
Did you return to:  full-time  part-time



## 7 Canada/Quebec Pension Plan Benefits (continued)

2. If you have applied, what is the status of your application?

- Approved** Have you been approved for:  CPP/QPP Disability benefits  
 CPP/QPP Retirement benefits

Please include a copy of the Notice of Entitlement and Payment Explanation Statement with this form.

Date (dd-mm-yyyy)

Benefit effective date:

Benefit amount per month:

\$

**Declined**

Have you appealed the decision?

No  Yes If yes, please provide the date of the appeal:

Please provide a copy of the denial letter.

**Decision pending** Please provide any additional details regarding your application/appeal.

Date (dd-mm-yyyy)

3. Provide the following information for any dependent children living with you:

Full name	Relationship to you		Date of birth (dd-mm-yyyy)	If child is 18 or over, check whether child is:	
	Son	Daughter		Handicapped	Full-time student
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

## 8 Your other income

Please list any amounts of money you are currently receiving or expect to receive each month from the following sources. We may take some of these amounts into consideration when we calculate your Long-Term Disability benefit.

Source	Insurance Co. & Policy Number	Have you applied for this income?		Are you receiving or do you expect to receive this income?		Amount per <input type="checkbox"/> Week <input type="checkbox"/> Month	When are your benefits expected to end? (dd-mm-yyyy)
		Yes	No	Current	Expected		
Any other disability insurance (i.e. WCB/WSIV/ CNESST, Union Disability Benefit, Creditor, Credit Cards, etc.)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Auto insurance		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Other Group/ Association/ Individual Plans		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Employment insurance		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Quebec Parental Insurance Plan		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Canada/ Quebec Pension Plan		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Employer Disability, Severance or Retirement		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Any other Accident/ Group/ Association/ Government Disability Benefit		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	
Other (specify) i.e. in Quebec, Criminal Victims Benefits		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$	

## 9 Returning to work

You must notify Sun Life if,

- your medical condition improves so that you are able to work
- you begin working again either as an employee or as a self-employed person.

Returning to work is an important part of your treatment program. If you qualify, Sun Life has a program to assist you to return to work. You may be contacted by a Sun Life Health Management Consultant.

1. What discussions have you had with your doctor regarding your return to work, either to your own job (with or without modification), or to another position?

2. What discussions have you had with your employer regarding your return to work, either to your own job (with or without modification), or to another position?

## 10 Your education, skills and work history

1. Level of education completed:  High School  Community College  University

What was the highest grade level/year that you completed? Please list any certificates/degrees obtained.

2. Please advise if your education was obtained within Canada or outside of Canada. If obtained outside of Canada, please confirm where.

3. Please describe other educational training or skills upgrading (include on-the-job training, special interest courses, etc.). In addition, list any other skills you have acquired. These skills may include typing, computer skills, operation of equipment, supervisory skills, special licenses, etc. They may also include skills acquired through volunteer work, hobbies and interests. (Attach extra sheets, if necessary.)

4. Do you have a valid driver's license?  No  Yes If yes, Class

Please give details about any driving restrictions resulting from your disability.

Please provide your work experience. Attach a resume if available.

From (date) (dd-mm-yyyy)	To (date) (dd-mm-yyyy)	Employer	Job title

## 11 Automatic deposit of your disability payments (This service is subject to the approval of your claim.)

We offer you, for your convenience, the option of your benefit payments being directly deposited into your account at any bank, trust company, caisse populaire or credit union in Canada. **If you would like to have your payments directly deposited into a chequing account we require a personalized void cheque with your name pre-printed on the cheque.** Please check with your Benefit Administrator to determine if this option is available to you.

If you do not have a chequing account, you must provide a direct deposit form or bank verification statement from your bank branch. This form must be provided by your bank, trust company, caisse populaire or credit union in Canada, and be signed and stamped by a banking representative. If your bank provides an online direct deposit form, pre-populated with your banking information, this can also be submitted. These forms must contain your name, the Bank Number, your Branch Number and Account Number to facilitate your benefit payment being deposited directly into your account.

## 12 Your declaration and authorization

Fraudulent claims are costly for all participants in a benefit plan and we will verify the accuracy of the information given in support of your claim.

You must also sign and complete the Member's Authorization on the Attending Physician's Statement.

I certify that the statements in this form are true and complete.

I understand that Sun Life Assurance Company of Canada ("Sun Life") may investigate my claim. I authorize Sun Life and its reinsurers to collect, use and disclose information needed for underwriting, administration, adjudicating claims under this Plan to any person or organization who has relevant information pertaining to my claim including health professionals, institutions, investigative agencies, insurers and, where applicable, my Plan Sponsor. I agree that Sun Life and my Plan Sponsor may also share financial information related to my claim for purposes relevant to the management of this Plan. I understand that information about me pertaining to my claim may be reviewed in the event this Plan is audited.

I authorize Sun Life and my Plan Sponsor and their medical consultants to collect, use and disclose among them information about me, **except** for details related to diagnosis, treatment or medication, that is relevant to my claim, for the purposes described above as well as for the purpose of planning and managing my rehabilitation and return to work.

In the event there is suspicion of fraud and/or Plan abuse related to my claim, I acknowledge and agree that Sun Life may collect, use and disclose information about me pertaining to my claim to any relevant organization, which may include my Plan Sponsor, regulatory bodies, government organizations, and other insurers, for the purpose of investigation and prevention of fraud and/or Plan abuse.

If there is an overpayment, I authorize the recovery of the full amount of the overpayment from any amount payable to me under my benefit plan(s), and the collection, use and disclosure of information about me to other persons or organizations, including credit agencies and, where applicable, my Plan Sponsor for that purpose.

I agree that my consent is valid for the duration of my claim, but for the purposes of audit, for the duration of the plan. I agree that a photocopy of this authorization or electronic version is as valid as the original.

*Any reference to Sun Life Assurance Company of Canada or the Plan Sponsor includes their respective agents and service providers. Any reference to medical consultants may include occupational health consultants.*

Member's last name (please print)	First name
Member's signature X	Date (dd-mm-yyyy)

Instructions on how to submit your completed form(s) can be found on the next page.

## 13 How to submit your completed form(s)

You have multiple ways of submitting your completed claim forms to us, along with any other information in support of your claim you would like to submit. For all options, except for mail, you can keep the original copies for your records.



If your plan has provided access to the Sun Life mobile app, you can submit your completed forms through the 'Documents' feature.



You can also send in your disability claim forms directly to Sun Life by email. If you would like to use this option, you can email us your completed disability claim forms to [disabilityclaims@sunlife.com](mailto:disabilityclaims@sunlife.com). Please be advised that although Sun Life uses reasonable means to protect the security and confidentiality of the email content it sends and receives, the privacy or security of email communications cannot be guaranteed.



You can fax your completed claim forms to the number that appears below for the Sun Life Assurance Company of Canada Group Disability Management Office that manages your claims. If you are unable to fax this information, you can mail it to the appropriate address. If you are not sure which office to send your information to, please contact your Benefits Administrator.

Halifax:

Fax: 1-866-639-7850  
PO Box 11480 Stn CV  
Montreal QC H3C 5P5

Kitchener - Waterloo:

Fax: 1-866-209-7215  
PO Box 100 Stn C  
Kitchener ON N2G 3W9

Montreal:

Fax: 1-866-639-7846  
PO Box 11037 Stn CV  
Montreal QC H3C 4W8

Edmonton:

Fax: 1-866-639-7820  
PO Box 2733 Stn Main  
Edmonton AB T5J 5C9

Toronto:

Fax: 1-866-639-7851  
PO Box 950 Stn A  
Toronto ON M5W 1G5

Vancouver:

Fax: 1-866-639-7829  
PO Box 48810 Stn Bentall  
Vancouver BC V7X 1A6

## 14 Respecting your privacy

Respecting your privacy is a priority for the Sun Life Financial group of companies. We keep in confidence personal information about you and the products and services you have with us to provide you with investment, retirement and insurance products and services to help you meet your lifetime financial objectives. To meet these objectives, we collect, use and disclose your personal information for purposes that include: underwriting; administration; claims adjudication; protecting against fraud, errors or misrepresentations; meeting legal, regulatory or contractual requirements; and we may tell you about other related products and services that we believe meet your changing needs. The only people who have access to your personal information are our employees, distribution partners such as advisors, and third-party service providers, along with our reinsurers. We will also provide access to anyone else you authorize. Sometimes, unless we are otherwise prohibited, these people may be in countries outside Canada, so your personal information may be subject to the laws of those countries. You can ask for the information in our files about you and, if necessary, ask us in writing to correct it. To find out more about our privacy practices, visit [www.sunlife.ca/privacy](http://www.sunlife.ca/privacy).

Example attachment:

Great West Life - Disability Income Benefits – Employee Statement

I had help to complete my application for Long Term Disability. I cannot write legibly due to my MS, so my wife filled out the form on my behalf. A staff member at the MS Society helped me to document my symptoms and how they impact my ability to work for the application. She asked me questions and typed up this document for me. The application process was really stressing me out – my anxiety about it was causing me trouble sleeping. I would have found it very difficult to complete without assistance.

**What is the nature of the medical condition preventing you from working?**

I was diagnosed with Relapsing Remitting Multiple Sclerosis in 1995, at the age of 28. I have experienced a gradual worsening of symptoms and disability over time.

I started my job as \_\_\_\_\_ in August of 1999. The majority of my work was on the computer and over the phone.

At work, my role was high pressure and included:

- talking to calling parties (people who call in with emergencies)
  - conducting call assessments
  - sending the appropriate help (emergency responders)
  - making judgements of what was needed depending on the situation
  - corresponding with hospitals
-

These are the symptoms of my MS and a description of how they were impacting my ability to do my job:

### **Fatigue (physical & cognitive):**

- Fatigue is an issue for me all the time – at work I would push myself until I would drop.
- Even though I am off work now, I still wake up early at 5am. I usually take a morning nap and usually an afternoon nap as well. This allows me to recharge – I couldn't do this if I were working.
- Even first thing in the morning I feel the fatigued. After getting up and getting ready (showering, dressing, having breakfast) I feel tired and could use a rest/nap.
- Before I stopped working, I was having to get up earlier and earlier in order to get ready in time for work. My wife noticed this. Morning tasks were taking me longer to do - I have to take everything slower to avoid falling.

### **Incoordination / Numbness in Hands:**

- I have difficulty writing with a pen and using the mouse of a computer
- There is a breakdown in the connection between my brain and hands due to my MS
- I know what I want my hand to do, but I cannot make it do it
- I needed to use the mouse accurately and quickly - this became really hard to do

# Attending Physician's Questionnaire Claim for Long-Term Disability Benefits



Please complete this form based on your patient's current medical condition. The information you provide will assist Sun Life Assurance Company of Canada (Sun Life) to understand your patient's condition, treatment, prognosis and potential for recovery. Thank you for your time and cooperation.

Please note that any reference to Attending Physician (doctor) also refers to Licensed Physician or Nurse Practitioner.

NOTE: There are three Questionnaires included in your patient's LTD package – Mental Health, Musculoskeletal and one for other conditions. Only one form needs to be completed. Please choose the form most appropriate for your patient's condition. Your patient is responsible for any cost associated with the completion of this form.

## 1 Plan Member information and authorization (to be completed by your patient)

First name		Last name		<input type="checkbox"/> Male <input type="checkbox"/> Female	
Address (street number and name)				Apartment or suite	
City		Province		Postal code	
Home telephone number			Alternate telephone number		
Email address					
Contract number	Member ID number	Height ft. in. m. cm.	Weight <input type="checkbox"/> lbs. <input type="checkbox"/> kg.	Last date worked (dd-mm-yyyy)	Date returned to work or expected return to work date (dd-mm-yyyy)

### Please list your present medications

Name of medication	Dosage (mg)	How often?

### Member's consent & signature

I authorize my doctor to collect, use and disclose my personal information to Sun Life, its agents and service providers for the purposes of underwriting, administration and adjudicating claims under this Plan. I agree that this consent is valid throughout the duration of my claim or during the resolution of any decision relating to my claim that I have disputed, but for the purposes of audit, for the duration of the Plan. I agree that a photocopy of this consent or electronic version is as valid as the original. Please note that genetic testing information is not required, so please do not include.

Plan member signature X	Date (dd-mm-yyyy)
----------------------------	-------------------

## 2 About the condition (to be completed by the doctor)

Plan member's first name	Last name	Date of birth (dd-mm-yyyy)
--------------------------	-----------	----------------------------

I am the:  Attending physician  Consulting specialist  Other (please specify) \_\_\_\_\_

### Current diagnosis

Primary
Secondary

Has the diagnosis been communicated to your patient?  Yes  No

Is this condition related to:

Occupational illness/injury  Auto accident  Criminal act If so, date of event:

Details

First date of work absence due to this condition (dd-mm-yyyy)	Date of first visit to you for this condition (dd-mm-yyyy)

Has the patient been treated for this same or similar condition in the past?  Yes  No If yes,

Date (dd-mm-yyyy)	By whom

Have you completed any other disability claim forms recently for your patient?  No  Yes

### Symptoms

Please describe your patient's current symptoms, including frequency and severity.

Symptom	Frequency	Severity

How have your patient's symptoms evolved to date?  Improved  No change  Retrogressed

If childbirth: expected or actual delivery date  Vaginal  C-Section

### 3 Clinical findings and observations

#### Investigations

Please attach copies of all relevant:

- test results/investigations (if test results are not attached, we will interpret this as tests were not performed)
- consultation reports

Please note that genetic testing information is not required, so please do not include.

Are tests and/or investigations pending?  No  Yes If yes,

Date report expected (dd-mm-yyyy)	Description

If you are not the treating specialist, is your patient currently under the care of a specialist?  No  Yes

If yes, please attach copies of consultation reports. If consultation reports are not attached or not yet received, please provide the following:

Name of specialist	Specialty	Date of appointment (dd-mm-yyyy)

#### Findings

Has any formal functional testing been done (e.g., functional abilities evaluation)?  Yes  No

If yes, please attach a copy of the report.

Please indicate if your patient has reported or exhibited any difficulty, and if so, level of difficulty with the following:

	None	Slight	Moderate	Severe	Is this consistent with physical or cognitive findings? Please comment.
Memory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Decision making	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Concentration/Focus	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Speech	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sleep	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sensation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dexterity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Driving	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Walking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Standing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Climbing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sitting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Reaching above shoulder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Reaching below shoulder	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Squatting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bending	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

### 3 Clinical findings and observations (continued)

Based on your clinical findings and observations, please describe your patient's current cognitive and/or physical restrictions and limitations.


#### Cardiac conditions

If the condition is related to a cardiac event, please provide the following:

Type of symptom	Description
<input type="checkbox"/> Chest pain of cardiac origin	
<input type="checkbox"/> Syncope	
<input type="checkbox"/> Fatigue	
<input type="checkbox"/> Dyspnea due to vascular congestion or hypoxia	
<input type="checkbox"/> Psychophysiologic	
<input type="checkbox"/> Other	

BP readings over last 6 months (including date) \_\_\_\_\_

Current status?  Stable  Improving  Regressing

What is the functional capacity (American Heart Association)? If class 3 or 4, please include a copy of any stress tests or cardiac echograms.

Class 1 (no limitation)  Class 2 (slight limitation)  Class 3 (marked limitation)  Class 4 (complete limitation)

Is angina the limiting exercise factor?  Yes  No

#### Complicating factors

Current height \_\_\_\_\_ Current weight \_\_\_\_\_ Weight loss/gain to date \_\_\_\_\_

Is your patient in a weight reduction program?  Yes  No If yes, please provide details.


Please indicate all factors that may have contributed to the clinical problem(s) and may complicate your patient's recovery period.

- Workplace issues  Social/family issues  Financial/legal problems  Self-harm behavior  Physical condition  
 Alcohol/drug use  Medication side effects  Pain perception  Coping skills  Personality/motivation  
 Other

Please describe.


### 3 Clinical findings and observations (continued)

Please describe the supports in place, or planned, to assist with these issues.


Has any licence held by your patient been restricted or revoked as a result of this condition?  Yes  No If yes, as of when?

Date (dd-mm-yyyy)	Type of license

### 4 Treatment

Has your patient recently been hospitalized for their current condition?  Yes  No

If yes, please provide copies of the hospital discharge summary. If this is not available, please provide the following.

#### Date of any hospitalizations

Date of admission (dd-mm-yyyy)	Date of discharge (dd-mm-yyyy)	Institution name

If surgery was/will be performed, please provide date(s) and description of surgery(s).

Date (dd-mm-yyyy)	Description

How long has your patient been under your care?

Date of last visit (dd-mm-yyyy)	Date of next scheduled visit (dd-mm-yyyy)

Since the first visit, how often have you seen your patient?  Weekly  Bi-weekly  Monthly  Other

#### Medications prescribed by you (only those not identified by the member in section 1)

Medication	Dosage	Date started (dd-mm-yyyy)	Response/Comments

#### Medications prescribed by other physician(s)

Medication	Dosage	Date started (dd-mm-yyyy)	Response/Comments

### 4 Treatment (continued)

Treatment details (e.g. physiotherapy, pain management, chiropractic, psychotherapy, cognitive behavioural, massage, exercise, other rehabilitation therapy)

Type of therapy	Name of provider or facility	Date treatment began (dd-mm-yyyy)	Frequency of visits	Date of last visit (dd-mm-yyyy)	Response
			<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other		
			<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other		
			<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other		
			<input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other		

#### Overall response to treatment

Please describe the response to treatment to date.  Complete  Partial  None  Too soon to tell

Is your patient following the recommended treatment program?  Yes  No If no, please explain.


Are there any plans to change or augment the current treatment program?  Yes  No If so, please explain.


### 5 Prognosis and recovery

Sun Life encourages rehabilitation assistance, modified work or light duties to return an employee to the workplace as soon as medically possible. Based on the information you have provided we will review your patient's rehabilitation potential.

What return-to-work goals have been discussed with your patient? Please explain.


Please provide your patient's prognosis for improvement.


Please provide any other information that will help us understand your patient's current condition, recovery goals and prognosis.


# Adjudication

- No time frame – can take a while if the insurer has to request further medical info to review
- Client should be notified in a letter; maybe a phone call
- If approved, regular monitoring:
  - Requests for updates
  - May include surveillance
- If denied, seek legal advice:
  - Can appeal internally with an advocate's help
  - Depending on the situation, it may be advisable to hire a lawyer to litigate

## Communicating with Insurers

- **Can be very stressful for clients!**
- **Suggestions (not entitlements):**
  - Advocates can ask to be on update calls with client
  - Advocates can ask to be copied on emails
  - Clients can ask to only receive update Questionnaires via email or mail rather than via phone
  - Clients and advocates can ask for extra time to submit updates (extensions)

## Reasons for Denial

- **Common reasons LTD claims are denied:**
  - Claimant forms did not demonstrate total disability
  - Not sufficient “objective” medical evidence supporting reported restrictions and limitations (especially in cases involving “subjective” conditions i.e. ME/CFS, FM)
  - Claimant gave contradictory information over phone vs. in claimant form
  - Medical records damage the case
  - Misunderstanding of medical information / treatment options for the illness
  - Surveillance damages claimant’s credibility

## Reasons for Denial

- **Common reasons LTD claims are denied continued:**
  - **Change of definition - not disabled from any occupation**
  - **Bullying / harassment cases: absence from work is due to workplace conflict and not due to an illness or injury**
  - **Pre-existing condition clause**
  - **Not under the regular care of a physician / not appropriately treated for condition**
  - **Contractual exclusions: i.e. not being treated in an in-patient treatment facility when substance / alcohol abuse is part of the disabling condition**

Example:



Dina Mistry  
Disability Case Manager  
Group Disability Management

Sun Life Assurance  
Company of Canada  
PO Box 950 Stn A  
Toronto, ON M5W 1G5



Thank you for speaking with me on our recent call. This letter is to confirm our discussion and give you the information you need about your long-term disability claim – please keep it for your future reference.

#### About your claim

- We have received your claim for long-term disability benefits for an absence from work that started on September 24, 2018.
- Based on our review, your claim is not approved.
- We understand that you may be experiencing some health concerns. However, as detailed below, the information we have does not confirm that your health prevents you from performing your *own* occupation as [redacted].
- Under the benefit plan provided by [redacted] you can only receive long-term disability benefits for up to 24 months if your health prevents you from performing your *own* occupation.
- You can read more information of the contractual details related to your claim in the 'Important Information' section at the end of this letter.

#### About the decision

In review of the information provided, there is insufficient information to determine that you would be unable to perform the duties of your own occupation. While we acknowledge that you may continue to

experience symptoms, the medical information provided does not support a level of severity which would preclude work in your own occupation

The existence of symptoms does not equate to total disability. There must be information that the condition causes functional impairment to the extent of impeding work tolerance in your own occupation.

As per your Attending Physician form [REDACTED] your diagnosis is noted as Multiple Sclerosis, with a secondary condition of Anxiety. You have been diagnosed with this condition since 2009, and continued to work. As per our telephone call on May 28, 2019, you reported your symptoms were getting worse. However, you remain in minimal treatment, for both of your conditions. As well as the November 14/2018 clinic report noted your condition is stable.

While we note that you feel unable to perform your own occupation, the information on file is not indicative of this level of disability.

#### **Additional information**

The information we have also indicates that you may have concerns related to the workplace. If this is the case, I recommend that you speak to your Human Resources department and/or manager.

#### **Your life insurance coverage**

As part of your benefits plan, your group life insurance has an option for continued coverage without payment of the premiums. Based on our review, your claim for payment of life insurance premiums is not approved.

As you are no longer an employee of [REDACTED] and your disability and waiver of life premium claims have not been approved, your group benefits coverage, including your life coverage, has ended. However, you may be eligible to change or convert part of your group benefits coverage to an individual policy. If you are interested in this option please call the Sun Life Financial Customer Solution Centre at 1-877-893-9893 within 31 days from the end of your benefits.

#### **Appeal process**

If you have new information or disagree with our decision, we will be happy to review your claim. This review of your claim is called an appeal. Send us a letter within 30 days, to the address at the top of this letter, indicating your intent to appeal and outlining the reason for your concern. If you have **new** medical records or reports about your condition, please include them with your letter. Please note that you are responsible for the cost of providing new medical information for an appeal.

# Internal Appeals

- **Steps for an internal appeal:**
  - Review reasons for denial and assess merits of an appeal
  - Consider seeking legal advice
  - Provide Notice of Appeal to insurer
  - Submit authorization form so advocate can communicate with the insurer on the client's behalf
  - Request file from the insurer
  - Seek medical support – write to doctor(s)
  - Work with client on a self-report
  - Write a reconsideration submission letter
  - Submit ASAP
  - The insurer may take some time to review reconsideration package (no clear timeline)
- *How To Appeal a Long-Term Disability Denial in Seven Steps:* <https://www.resolutelegal.ca/blog/how-to-appeal-disability-insurance-claim-denial>

## Example:

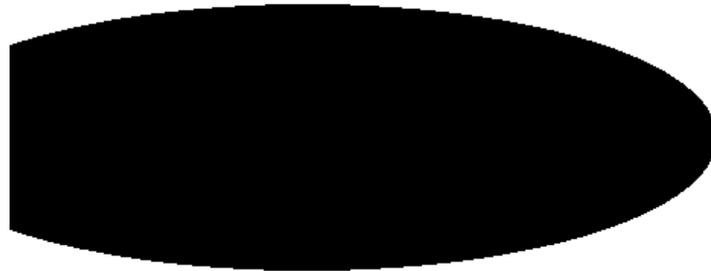
We encourage you to follow our appeal process before you consider a legal action; however, if you decide to take legal action against Sun Life, you will need to start it within a timeline called the limitation period. The timeline begins with the date of this letter and runs continuously even while a review (appeal) may be underway. Refer to your provincial insurance act or other applicable provincial legislation for information on the limitation period.

### **Further information**

 has been advised that your claim is not approved.

I understand that this is not the decision you hoped for and I trust that this letter clearly explains the reasons for our decision. If you have any further questions, please do not hesitate to contact me at the number below.

Yours truly,



### **Important**

Please ensure that you review the 'Important Information' section at the end of this letter. It provides information on contractual obligations related to your claim.

# Limitation Period

- Relevant legislation:
  - Limitation Act  
[http://www.bclaws.ca/civix/document/id/complete/statreg/12013\\_01](http://www.bclaws.ca/civix/document/id/complete/statreg/12013_01)
  - Insurance Act  
[http://www.bclaws.ca/civix/document/id/complete/statreg/12001\\_00](http://www.bclaws.ca/civix/document/id/complete/statreg/12001_00)
    - Part 4 – Accident and Sickness Insurance  
[http://www.bclaws.ca/civix/document/id/complete/statreg/12001\\_04#part4](http://www.bclaws.ca/civix/document/id/complete/statreg/12001_04#part4)
  - There is a limitation period for clients to take legal action against an insurer for denied LTD benefits (important: pursuing an appeal does not interrupt the limitation period from running)
  - Identifying when the limitation period started can be complex and may require the expertise of a lawyer

# Limitation Act

## Part 1 – Interpretation

### Division 3 - Application

#### Conflict of laws

- 4 (1) If the substantive law of another jurisdiction is to be applied by the court in deciding a claim, the law of that other jurisdiction respecting limitation periods must be applied in relation to the claim.
- (2) Despite subsection (1) of this section, the court must apply section 3 (1) to any claim referred to in section 3 (1) (i), (j) or (k) whether or not the substantive law of another jurisdiction is to be applied by the court in deciding the claim.

# Limitation Act

## Part 2 – Basic Limitation Period

### Division 1 – Establishment of Basic Limitation

#### Period

#### Basic limitation period

- 6 (1) Subject to this Act, a court proceeding in respect of a claim must not be commenced more than 2 years after the day on which the claim is discovered.
- (2) The 2 year limitation period established under subsection (1) of this section does not apply to a court proceeding referred to in section 7.

# Insurance Act

## Part 4 – Accident and Sickness Insurance

### Limitation of actions

- 104 (1) Subject to subsections (2) and (5), an action or proceeding against an insurer for the recovery of insurance money payable in the event of a person's death must be commenced not later than the earlier of
- (a) 2 years after the proof of claim is furnished, and
  - (b) 6 years after the date of the death.
- (2) Subject to subsection (5), if a declaration has been made under the *Presumption of Death Act*, an action or proceeding referred to in subsection (1) must be commenced not later than 2 years after the date of the declaration.
- (3) Subject to subsection (5), an action or proceeding against an insurer for the recovery of insurance money not referred to in subsection (1) must be commenced not later than 2 years after the date the claimant knew or ought to have known of the first instance of the loss or occurrence giving rise to the claim for insurance money.
- (4) If insurance money is not payable unless a loss or occurrence continues for a period of time specified in the contract, the date of the first instance of the loss or occurrence for the purposes of subsection (3) is deemed to be the first day after the end of that period.
- (5) An action or proceeding against an insurer for the recovery of insurance money payable on a periodic basis must be commenced not later than the later of
- (a) the last day of the applicable period under subsection (1), (2), (3) or (4) for commencing an action or proceeding, and
  - (b) if insurance money was paid, 2 years after the date the next payment would have been payable had the insurer continued to make periodic payments.

## When to consult with a lawyer

- **Complex cases which are beyond an advocate's expertise: pre-existing conditions, lack of "objective" medical evidence, contractual exclusions, change of definition, "subjective conditions" denials, workplace conflict cases**
- **Limitation period concerns**
- **If the claimant simply wants to review his or her options**
- **When a client does not want to be on claim**
  - **Settlement**

# Rehabilitation

- An insurer may determine that a client must participate in its rehab / retraining program as a way to try to get the client back to work
- Additionally, if a client's doctor determines the client should be able to return to some kind of gainful work, the client can contact the insurer about the rehab program
  - may continue to receive LTD while participating in the rehab program
  - may be reimbursed for rehab/retraining expenses
  - may reimburse employer for accommodation costs

# Settlement

- If a client has been on claim for some time, and/or it appears they will likely not be returning to work, the insurer may contact the client about a settlement
- Settling the claim would mean:
  - The client would accept a lump sum payment
  - The client would no longer be in receipt of LTD coverage for the consideration of his/her employment (if still employed)
  - The client would no longer have contact with the insurer (no monthly payments, no monitoring)
- When considering a settlement offer, a client should consult a financial advisor and consider obtaining legal advice

## Resources for Advocates & Clients

- Resolute Legal: <https://www.resolutelegal.ca/>
  - Free articles, publications, and webinars
- MS Society of Canada, BC & Yukon Division's Volunter Legal Advocacy Program (VLAP): [www.mssociety.ca/vlap](http://www.mssociety.ca/vlap)
  - Advocacy support for people living with MS and allied diseases
  - Disability Insurance publication
- Martin Willemse and McQuarrie Hunter LLP:  
<https://www.mcquarrie.com/our-team/j-martin-willemse/>
- Ask the Expert Series with an Insurance Denial Lawyer – moderated live presentation – PainBC with Martin Willemse  
<https://forum.liveplanbe.ca/topic/90/ask-an-insurance-denial-lawyer-april-20-2017>

## Resources for Advocates & Clients

- Insurance Denial and Disability Benefits Podcast with Martin Willemse – PainBC

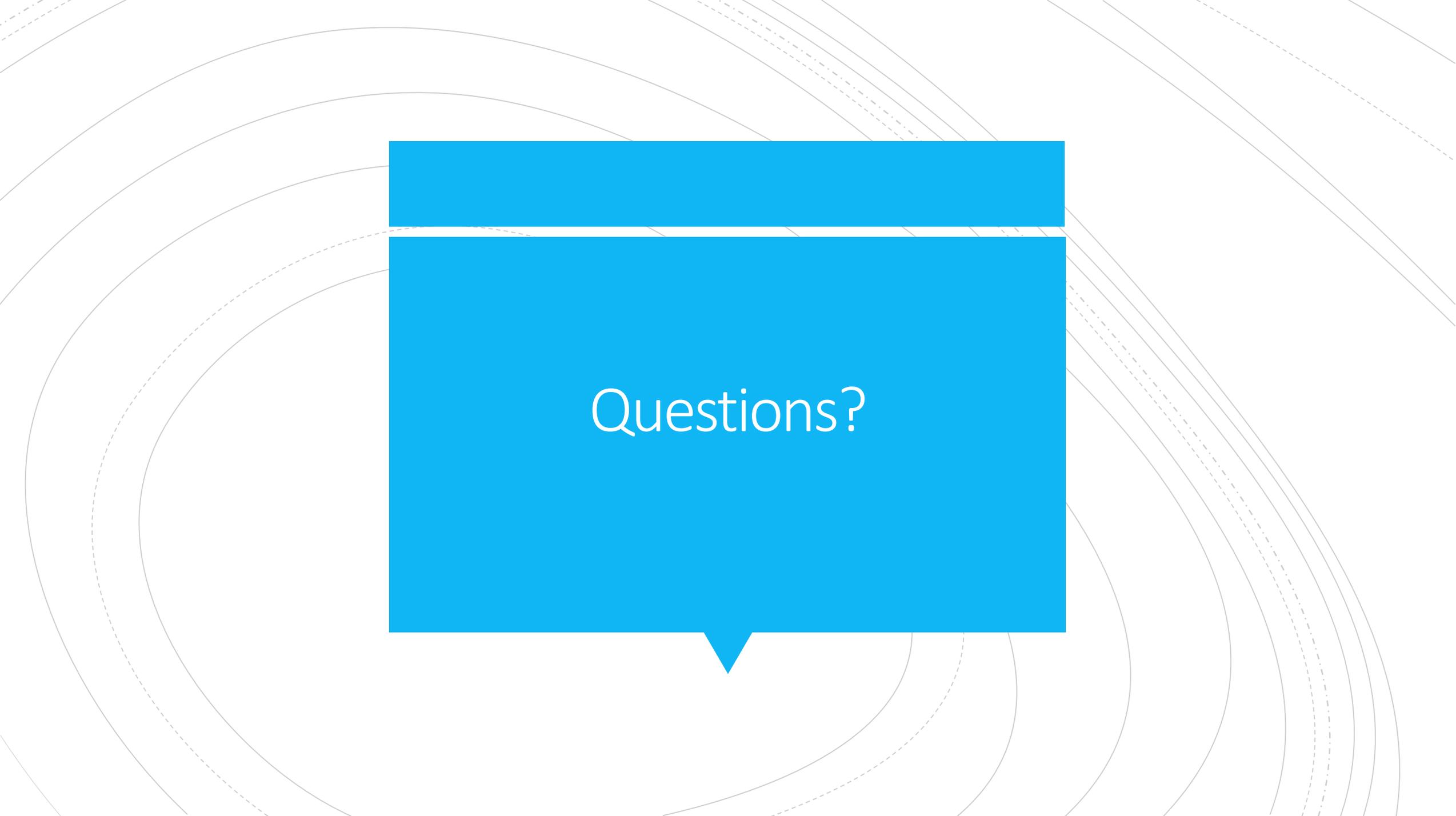
<https://player.fm/series/pain-waves/insurance-coverage-policies-and-disability-benefits-with-martin-willemse>

- Myalgic Encephalomyelitis & Fibromyalgia (MEFM) Society of BC Livestream 2017 with Martin Willemse

<https://www.youtube.com/watch?v=nOIMxO1PKFk>

Access Pro Bono Lawyer Referral Service:

<http://accessprobono.ca/lawyer-referral-service>

The image features a central blue speech bubble with a white outline and a small tail pointing downwards. Inside the bubble, the word "Questions?" is written in a white, sans-serif font. The background is white and decorated with several concentric circles of varying radii, some solid and some dashed, creating a subtle pattern.

Questions?

Thank you!

**Martin Willemse – Insurance Denial Lawyer**

*Partner, McQuarrie Hunter LLP*

604.580.7058

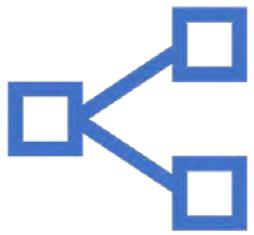
[mwillemse@mcquarrie.com](mailto:mwillemse@mcquarrie.com)

**Nyssa Lessingham**

*Law Student at University of Victoria*

*previous Advocate at MS Society*

[nyssa.lessingham@gmail.com](mailto:nyssa.lessingham@gmail.com)

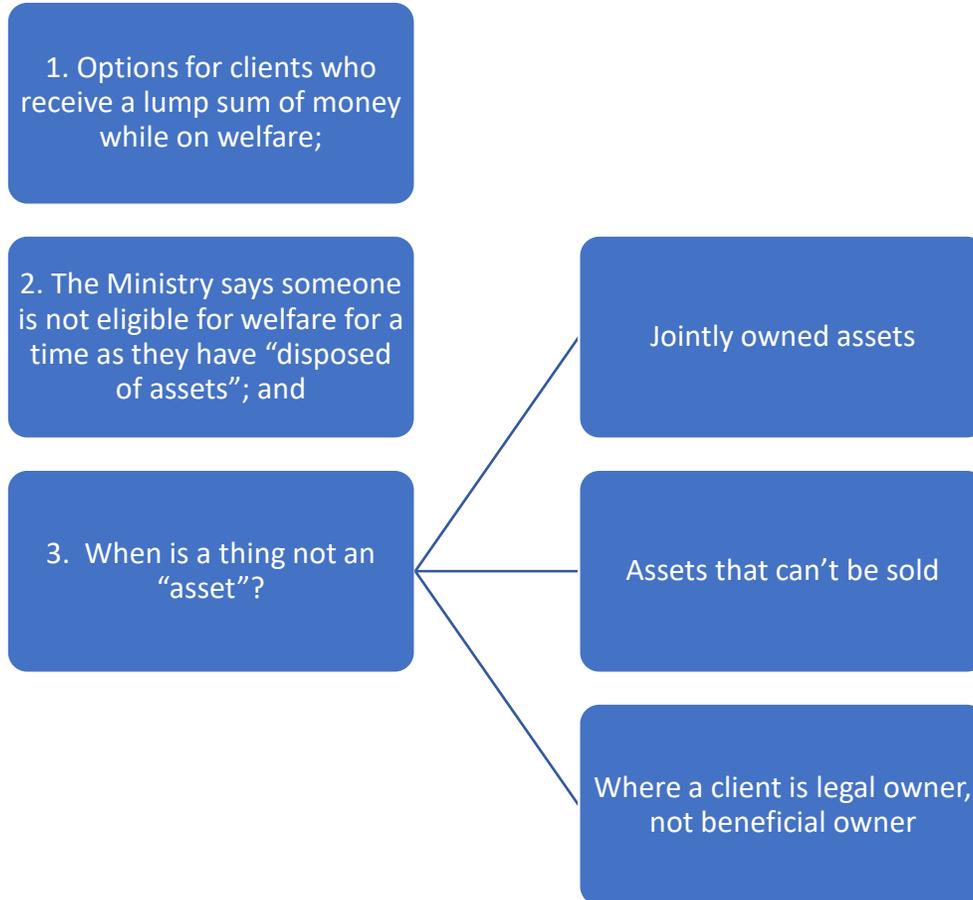


# WELFARE and ASSETS

Alison Ward, lawyer, Community  
Advocate Support Line, CLAS

October 10, 2019

# Welfare and Assets: three topics



# Section 1: Receipt of lump sums on welfare



# Section 1. Receipt of lump sums on welfare

Clients may receive lump sums from many different sources. For example:

- An inheritance;
- A gift from a friend or family member;
- A residential school settlement;
- A family law settlement or court order for property division;
- An ICBC settlement;
- Retroactive child support arrears.

# Duty to report income to the Ministry

---

ALL CLIENTS OF THE MINISTRY MUST REPORT THEIR RECEIPT OF ALL INCOME TO THE MINISTRY, BY THE 5 DAY OF THE MONTH AFTER THEY RECEIVE IT. IF THEY DON'T, THEY RISK:

---

BEING ASSESSED OVERPAYMENTS;

---

BEING ASSESSED SANCTIONS FOR NON-REPORTING;

---

THE POSSIBILITY OF CRIMINAL CHARGES FOR FRAUD IN RELATION TO WELFARE BENEFITS; AND

---

LOSING THE CHANCE TO STRUCTURE THEIR SITUATION TO SO THAT THEIR ONGOING WELFARE BENEFITS ARE AFFECTED AS LITTLE AS POSSIBLE

# Questions to ask about lump sums

1. Does the welfare legislation exempt the lump sum as income in the month it was received?

2. Does the welfare legislation exempt lump sum as an asset in the months after its receipt?

3. If the lump sum is not an exempt asset, will it put the client over their asset exemption level?

4. If it will, what options does the client have for managing the excess asset under the welfare legislation?

# Question 1: is the lump sum exempt income?



The answer to this depends on two things:

1. The source the money came from; and
2. the kind of welfare benefits your client receives.



Disability assistance income exemptions are different than income exemptions for income assistance and PPMB benefits.



Hardship assistance income exemptions are different too.

# Income exemption and types of benefits

## **Disability Assistance (PWD)**

- Inheritances are exempt income
- Gifts (**including recurring gifts**) are exempt income

## **IA and PPMB benefits**

- Inheritances are NOT exempt income
- Recurring gifts are NOT exempt income
- One time gifts are an asset (not income) at the time of receipt, and exempt up to the client's asset exemption level

(source: SCBC *Morris* decision and Ministry policy)

# Income exemptions - legislation



Check the applicable legislation carefully for each client!



Full lists of income exemptions are in:



*Employment and Assistance (EA) Regulation, Schedule B (for IA and PPMB benefits);*



*Employment and Assistance Regulation for Persons with Disabilities (EAPD) Regulation, Schedule B (or disability assistance); and*



Schedule D of the EA and EAPD Regulations (for hardship assistance).

# Question 2: after receipt, is it an exempt asset

Assets are classified as being either “exempt” or non-exempt;

A full listing of asset exemptions is found in:

Sections 11, 12 and 13 of the EA Regulation (for IA and PPMB benefits);

Sections 10, 11, and 12 of the EAPD Regulation (for disability assistance).

Section 6 of Schedule D to the EA and EAPD Regulation (for hardship assistance).

# Spending exempt assets

---

Let's say the lump sum your client received is an exempt asset (e.g. retroactive child support);

---

If the exempt lump sum is used to buy other assets that are not otherwise exempt (e.g. a 2nd car), the other asset (e.g. 2nd car) becomes exempt

---

**The exemption passes from the lump sum to the asset bought with it**

---

Record keeping is very important! Client must be able to show exempt funds used to purchase the second car, in this example

---

Consider putting an exempt lump sum in a separate bank account to create a clear record of what that exempt money is used for.

Question 3. If the lump sum isn't exempt, will it put the client over their asset exemption level?

## Asset exemption levels

- \$5000 for a single person on IA or PPMB benefits;
- \$10,000 for a family unit of 2 or more on IA or PPMB benefits;
- \$100,000 for a family unit on disability assistance where one adult has the PWD designation;
- \$200,000 for a family unit on PWD where two adults have the PWD designation

# Additional asset exemptions for PWD benefits

- Funds in a disability trust, RDSP or structured settlement annuity are also an exempt asset for PWD clients;
- Funds that a person on PWD benefits *intends* to put into a disability trust or RDSP are also exempted as an asset (see EAPD Regulation, s. 12.1(2) );
- If a person has not yet received the PWD designation, but they have a genuine intention to apply, they can receive income assistance with assets at the higher, disability assistance levels while they apply for PWD designation (see EA Regulation, s. 11(2.1)).

# Question 4: How can the client manage non exempt lump sums to minimize impact on benefits

Anyone on welfare who receives a non-exempt lump sum that is over their asset exemption level, has at least 3 options to manage their affairs:

1. Use some or all of the funds to buy exempt assets;
2. Use some or all of the funds to pay justly owing debts; and/or
3. Keep non-exempt assets up to their asset exemption level.

People with the PWD designation have two additional options:

- a) put some or all of the funds into a disability trust; and/or
- b) put some or all of the funds into an RDSP.

# Managing non-exempt lump sums

## Record keeping

If a client decides to spend some or all of a non-exempt lump sum to buy assets or pay just debts, they must **keep clear records** of all transactions:

- Get receipts for all assets purchased;
- Get proof of payment for all just debts paid;
  - they should also be prepared to show the Ministry documents to show they owed any debts they paid.

If a client does not keep clear records, the Ministry may say they “disposed of assets” and therefore are not eligible for welfare for a period of time.

# Section 2: Disposal of Asset Allegations



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## 2. Disposal of Asset Allegations

Section 14 of the EA Act and section 13 of the EAPD Act say:

**14** (1) The minister may take action under subsection (3) if, within 2 years before the date of application for income assistance or hardship assistance or at any time while income assistance or hardship assistance is being provided, an applicant or a recipient has done either of the following:

(a) failed to accept or pursue income, assets or other means of support that would, in the minister's opinion, enable the applicant or recipient to be completely or partly independent of income assistance, hardship assistance or supplements;

(b) **disposed of real or personal property for consideration that, in the minister's opinion, is inadequate.**

(2) A family unit is not eligible for income assistance for the prescribed period if, within 2 years before the date of application for income assistance or hardship assistance or at any time while income assistance or hardship assistance is being provided, an applicant or a recipient has done either of the following:

(a) **disposed of real or personal property to reduce assets;**

(3) In the circumstances described in subsection (1), the minister may

(a) reduce the amount of income assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period, **or**

(b) declare the family unit of the person ineligible for income assistance or hardship assistance for the prescribed period.

# Two types of disposal of property allegations

## “For inadequate consideration”

- “consideration” is what you receive in exchange for something else;
- E.g. if you sell a car worth \$4000 for \$4000, the consideration you get is the \$4000 cash;
- If you spend \$1000 on drugs worth \$1000, the consideration you get is \$1000 worth of drugs (and is adequate)
- If you spend \$20 000 on a \$20, 000 debt you can show you owe, the consideration you get is extinguishment of a \$20 000 debt (and is adequate)

## "To reduce assets"

- This implies that the person disposed of property to make themselves eligible for welfare
- The penalty for disposing of property to reduce assets is **double** the penalty for disposing of property for inadequate consideration
- This indicates this allegation is very serious. It requires an element of *intentionality*: *i.e.* that a client gave away things on purpose to qualify for welfare

# Two types of disposal of property allegations

## Penalties

### “For inadequate consideration”

- Where a person has disposed of property for inadequate consideration, the Ministry may
  - Reduce the family unit’s benefit rate by \$100 for each person in the family unit. The reduction lasts one calendar month for each \$2000 of the foregone consideration; OR
  - Find the family unit ineligible for **one** calendar month for each \$2 000 of the forgone consideration.

### “To reduce assets”

- Where a person has disposed of property “to reduce assets”
  - the family unit is ineligible for benefits for **two** calendar months for each \$2000 of the property that was disposed of to reduce assets

# Disposal of property allegations: Common Ministry errors

- When a client receives a non-exempt lump sum, an EAW may say that the client must live off the excess at no more than \$2000 per month, (this comes from the \$2000/month structure of the penalty for disposing of assets for inadequate consideration);
- An EAW who says this is legally wrong;
- clients who receive lump sums have all of the options for managing their situation outlined in earlier slides;
- The risk of an allegation about disposing of property for inadequate consideration or to reduce assets, highlights the need for clients to **keep good records** of how they use lump sums they receive

# Working with clients with disposal of asset allegations

- If the Ministry alleges that a client has disposed of assets for inadequate consideration or to make themselves eligible for welfare, it is important to develop a relationship of enough trust for the client to tell you what they did with their money. Clients may be afraid of your judgment or the Ministry's judgment if money was spent e.g. on addictions or travel, etc;
- The hardest situation to work with is one where a client won't tell you how part of all of a lump sum was spent;
- Any information from the client is better than none; most information can be worked with to show that in fact a client received adequate consideration for things they spent or sold.

Section 3:  
When is a  
thing not an  
“asset”?



# When is a thing not an asset?

This section looks at 3 situations (most often involving houses):

## 1. Jointly owned assets:

- e.g. someone is joint owner of a house they don't live in and needs time to sell it

## 2. Things that can't be sold, even with reasonable efforts over time

- e.g. house in a flood plain affected by climate change

## 3. Where a client is the legal owner of a thing, but not the beneficial owner

- e.g. a parent puts an adult child on title to a house for estate planning purposes only

# Definition of “asset”

Arguments that these three categories of things are not “assets” the Ministry should count, centre on the definition of asset in the EA and EA Regulation, section 1:

***“asset” means***

*(a) equity in any real or personal property that can be converted to cash,*

*(b) a beneficial interest in real or personal property held in trust, or*

*(c) cash assets*

# “Equity.... that can be converted to cash”

## **Jointly owned assets:**

- where property is jointly owned, each owner is presumed to have a 50% share in the equity.
- If half the equity would put a client over their asset exemption level, and the other owner won't agree to sell, the property can be exempted as an asset to allow time to sell it;
- The Ministry's policy on jointly owned *assets says:*
- *When it is determined that an asset that is jointly owned cannot be disposed of because the other owner will not co-operate, the Supervisor may deem the asset not available. This decision is valid for a six-month period and may be extended for a maximum of two years.*
- This two year maximum exemption is only policy (not law).

# Equity that cannot be converted to cash

There may be cases where something can't be sold \*at all,\* despite the person making reasonable efforts to sell them over time

In these cases, **depending on what evidence is available**, it may be possible to argue that the things are simply not “assets” at all. For example:

- Bare land in a remote location with no sales in years, with environmental damage;
- Property your client owns in another country, which your client fled as a refugee;
- Joint matrimonial home in New Brunswick, where client is on IA in BC, isn't eligible for legal aid, can't afford to travel to New Brunswick to sell, ex refuses to sell.

# Where a client is the legal owner, not beneficial owner

- Remember “asset” is defined in part as:

*“a beneficial interest in real or personal property held in trust”*

- if a person doesn't have a “beneficial interest” in property (or some other thing), then that property is not an “asset” under the legislation.

# Legal ownership vs. beneficial ownership

There are at least 2 kind of ownership the law recognizes:

- A) Legal ownership: this is determined purely by who is name as the owner on the registered legal title to a property (house, car etc); and
- B) Beneficial ownership: this is about who owns a property in the sense of having all the benefits of ownership, regardless of who may be named as the “legal owner.”

A lay person might say that a beneficial owner is the person who “really owns” something, no matter who might have legal title to it.

# How to prove whether someone has beneficial ownership of something?

- Let's say you represent a client, Gabriela, whose elderly father put her on title to the family home, so that she will inherit it without probate when the father dies. The house is worth 1 million dollars.
- The Ministry says your client is ineligible for income assistance because the client owns (is on legal title to) an expensive house she doesn't live in.
- Is this house your client's asset? Is she just the legal owner, or does she also have a beneficial interest in the house?

# Proving beneficial interest in a property

In **all** cases, what legally determines who the beneficial owner of a property is, are:

- a) The intentions of the parties at the time that the property was put into the name of the client (or other legal owner); AND
- b) What the law has to say about something called a “presumption of advancement” in your client’s situation.

# Presumptions of Advancement (1)

- Legal presumptions are non-negotiable assumptions the law makes in a factual void. The presumption of innocence is one example of a legal presumption. Knowing no facts, the law presumes everyone is innocent until proven guilty. That is, evidence can disprove a legal presumption.
- Presumptions of advancement deal with situations where the law does (or does not) presume someone has a beneficial interest in property when they are put on legal title to that property as sole or joint owner

# Presumptions of advancement (2)

1. Where a parent puts an adult child on legal title to something (e.g. a bank account, a house etc.), the law presumes that the parent **did not intend** to give the adult child beneficial ownership of the thing;

- This presumption can be disproven by evidence

2. Where a parent puts a minor child on legal title to something, the law presumes the parent did intend to give the minor child beneficial ownership of the thing;

- This presumption can also be disproven by evidence.

*The Supreme Court of Canada decided these presumptions in 2007 in a case called Pecore v Pecore.*

# Gabriela's case continued

- In Gabriela's case, as she is an adult the law *presumes* her father didn't intend to make her the beneficial owner of the million dollar house by putting her on legal title;
- But, you still need evidence of what her father actually intended, as evidence can disprove a legal presumption;
- The BC Supreme Court has said that when someone argues they don't have a beneficial interest in property they legally own, they must supply **sworn evidence** (i.e. statutory declaration) to support their position. Letters are not enough.
- Therefore, you should get statutory declarations from the client, her father about their intentions in putting the client on title. If the father had an estate lawyer, that lawyer would also provide evidence.

# Arguing Dependency

Presented by Daniel Jackson

Together Against Poverty Society (TAPS)





*"It is justice, not charity, that  
is wanting in the world."  
~ **Mary Wollstonecraft***

## **TAPS Services**

Tenant Advocacy  
Income Assistance Advocacy  
Volunteer Disability Advocacy  
Federal Disability Advocacy  
Employment Standards Advocacy  
Public Legal Education  
Income Tax Preparation

*Largest anti-poverty group on Vancouver Island  
Individualized & Systemic Advocacy*



# ***Employment & Assistance (for Persons with Disabilities) Act***

## **Section 1:**

**"dependant"**, in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

**"spouse"** has the meaning in section 1.1;



# ***Employment & Assistance (for Persons with Disabilities) Act***

## **Meaning of "spouse"**

**1.1** (1) Two persons, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they are married to each other, or
- (b) they acknowledge to the minister that they are residing together in a marriage-like relationship.

(2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if

- (a) they have resided together for at least
  - (i) the previous 3 consecutive months, or
  - (ii) 9 of the previous 12 months, and
- (b) the minister is satisfied that the relationship demonstrates
  - (i) financial dependence or interdependence, and
  - (ii) social and familial interdependence,

consistent with a marriage-like relationship.



# EA(PWD) Regulation

## Applicant requirements

- 5** (1) For a family unit to be eligible for income assistance or a supplement, an adult in the family unit must apply for the income assistance or supplement on behalf of the family unit unless
- (a) the family unit does not include an adult, or
  - (b) the spouse of an adult applicant has not reached 19 years of age, in which case that spouse must apply with the adult applicant.



# Legislative Changes: Bill 35 2019

- Adjustment of the 3-month time period to one year (consecutive);
- Recognizing separated but not yet divorced status, by permitting regulations which prescribe circumstances in which two persons are not spouses of each other for the purposes of this Act.
- Removing the parental role indicator as a category of dependent;



# Marriage

- s.1.1(1)(a) they are married to each other,
- *EA Act*: Married = Spouse, until officially divorced
  - **This will apparently be amended soon.**
- Divorce Act
  - The easiest and therefore cheapest way to qualify for divorce is to 'separate' for 12 months.
  - Can remain in same residence if can demonstrate separated.



# s.1.1(2): Interdependence

- (2) Two persons who reside together, including persons of the same gender, are spouses of each other for the purposes of this Act if
  - (a) they have resided together for at least
    - (i) the previous 3 consecutive months, or
    - (ii) 9 of the previous 12 months, and
  - (b) the minister is satisfied that the relationship demonstrates
    - (i) financial dependence or interdependence, and
    - (ii) social and familial interdependence,



# Reporting Obligations

**11** (1) For a family unit to be eligible for disability assistance, a recipient, in the manner and within the time specified by regulation, must

- (a) submit to the minister a report that
  - (i) is in the form prescribed by the minister, and
  - (ii) contains the prescribed information, and
- (b) notify the minister of any change in circumstances or information that
  - (i) may affect the eligibility of the family unit, and
  - (ii) was previously provided to the minister.



# Hudson

Hudson v. British Columbia (Employment and Assistance Appeal Tribunal), 2009 BCSC 1461 (CanLII)

- [35] Furthermore, in reviewing this decision, it is important to keep in mind the *Interpretation Act*, s.8, which reads “[e]very enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.” In dealing with similar legislation to the [EAPDA](#), the Ontario Court of Appeal in *Gray* provided valuable instruction for interpreting the type of social welfare legislation at issue:
- [10] It is my view that as social welfare legislation, any ambiguity in the interpretation of the *ODSPA* should be resolved in the claimant’s favour. In *Wedekind v. Ontario (Ministry of Community and Social Services)* (1994), [1994 CanLII 1659 \(ON CA\)](#), 21 O.R. (3d) 289 (C.A.) at 296-297, this court stated:
  - [T]he principle of construction ... applicable to social welfare legislation ... is, where there is ambiguity in the meaning of a statute, the ambiguity should be resolved in favour of the applicant seeking benefits under the legislation.
- [11] Likewise, in *Abrahams v. Canada (Attorney General)*, [1983 CanLII 17 \(SCC\)](#), [1983] 1 S.C.R. 2 at 10, Wilson J. wrote with respect to the *Unemployment Insurance Act*.
  - Since the overall purpose of the Act is to make benefits available to the unemployed, I would favour a liberal interpretation. ... I think any doubt arising from the difficulties of the language should be resolved in favour of the claimant.



# Dependency Scenario

**Arwen**



# ***Employment & Assistance (for Persons with Disabilities) Act***

## **Section 1:**

**"dependant"**, in relation to a person, means anyone who resides with the person and who

- (a) is the spouse of the person,
- (b) is a dependent child of the person, or
- (c) indicates a parental role for the person's dependent child;

**"spouse"** has the meaning in section 1.1;



# “Resides”

- Policy Manual:
- A person living at the same address but in a separate living area (such as a self-contained suite) is not considered as residing with the applicant or recipient. In addition to a self-contained suite, a separate living space may also include:
  - a developed basement with separate living and/or sleeping quarters but no separate kitchen and the individual resides in the space with the intent of maintaining a separate living space;
  - a separate structure on the same property that, though it is not ‘zoned’ as a living space, the individual resides in the space with the intent of maintaining a separate living space.



# Acknowledgement

- EAAT 15-610:
- the wording used by the appellant is “I would like to add my now fiancé to my file as spouse.”
- Panel finds that acknowledgement must be “explicit” to be relied on as basis of dependency relationship.
  - In this case, good evidence of alleged spouse maintaining another residence as primary.



# Dependency Scenario II

**Sauron**



# Dependent Children

**"dependent child"**, with respect to a parent, means a child, other than a child who is 18 years of age and is a person with disabilities, who resides in the parent's place of residence for more than 50% of each month and relies on that parent for the necessities of life, and includes a child in circumstances prescribed under subsection (2);a

(2) For the purposes of the Act and this regulation, if a child resides with each parent for 50% of each month under

- (a) an order of a court in British Columbia,
- (b) an order that is recognized by and deemed to be an order of a court in British Columbia, or
- (c) an agreement filed in a court in British Columbia,

the child is a dependent child of the parent who is designated in writing by both parents.



# Dependent Children

- **"parent"**, in relation to a dependent child, includes the following:
  - (a) a guardian of the person of the child, other than
    - (i) a director under the [Child, Family and Community Service Act](#), or
    - (ii) an administrator or director under the [Adoption Act](#);
  - (b) a person legally entitled to custody of a child, other than an official referred to in paragraph (a) (i) or (ii);
  - (c) if the child is a dependent child of a parenting dependent child, a person who is the parent of the parenting dependent child;



# “Fleeing Abuse” and Residency

- One business day interview priority
- Exemptions:
  - Work search;
  - Two year independence;
  - Citizenship (see next slide);
  - Income/Assets if risky or inaccessible (six month exemptions, up to 2 years total)
- Fact pattern: Woman wants to leave her partner, alleges financial and emotional abuse. Has no income. Cannot afford to move.



# Sponsorship Undertakings & Threats or Violence

- Sponsorship – non-citizen sponsored by another individual who has agreed to take financial responsibility for them.
- Policy says third party verification of some risk from/to sponsor.
- Recent Ministry practice seems to suggest that this isn't consistent.



# Questions?



## 7. Other

# **Workers' Rights: Updates**

## **The Law Foundation Provincial Training Course**

**October 9, 2019**



The information contained in this document is current as of October 9, 2019.

# Migrant Workers Centre: Who we are

- Migrant Workers Centre is a non-profit organization dedicated to legal advocacy for migrant workers in BC.
- MWC facilitates access to justice for migrant workers through the provision of free legal education, advice and full representation.
- The organization also works to advance fair immigration policy and improved labour standards through law and policy reform.





# Agenda

1. Changes to the *Employment Standards Act*
2. The new *Temporary Foreign Workers Protection Act*
3. Changes to the Temporary Foreign Worker Program

# Rights in the Workplace

Minimum standards of work	<b>Employment Standards Branch</b>
Workplace safety or injuries, bullying or harassment	<b>WorkSafeBC</b>
Human Rights Issues	<b>BC Human Rights Tribunal</b>
Employment contract	<b>Court</b>
Employment insurance	<b>Service Canada</b>

# Employment Standards

Minimum standards for workers



# Overview

- Most employees in BC are protected by the Employment Standards Act (ESA)
- *Employment Standards Act (ESA)*: establishes minimum standards for wages, hours of work, holidays, and other working conditions for employees in British Columbia.
- “Employment Standards Branch” (ESB): is responsible for administering the ESA.
- ESB website: contains substantial information regarding workers’ rights, including “factsheets” about specific industries, and complaint forms for filing a complaint at the ESB.
- 6-month limitation period
- 12-month recovery period



# Employment Standards

Rules cover:

- Recruitment & hiring
- Wages, payment of wages, and deductions
- Hours of work, overtime, and breaks
- Days off, statutory holidays, and vacation
- Terminating employment



# Who is covered by the *ESA*?

The *ESA* and the *ESA* Regulations apply to employees in BC:

“A person receiving or entitled to wages for work performed for another”

## Who is NOT covered?

- Unionized workers
- Professionals: doctors, architects, lawyers, licensed realtors, etc.
- Federally regulated businesses and industries: banks, airlines, etc.
- Independent contractors



# Bill 8 Changes

- Recovery of Wages – from 6 months to 12 months
- New Leaves – critical illness or injury leave, domestic violence leave
- Treatment of Tips & Gratuities
- Child Employment Protections
- Administrative Changes – no Self-Help Kit requirement, requirement for Employers to inform workers of their rights



# Leaves of absence

- The *ESA* requires employers to provide UNPAID leave, as follows:
  - Critical Illness or Injury (*ESA* s. 52.11)
    - Up to 36 weeks to care for critically ill child, and up to 16 weeks to care for an adult
    - Aligns with federal EI insurance benefits
  - Domestic or Sexual Violence (*ESA* s. 52.5)
    - Up to 10 non-consecutive days
    - Up to 15 consecutive weeks



# Minimum Wage in British Columbia

- On 1 June 2019, the minimum wage for most workers in BC was raised to **\$13.85** per hour.
- On 1 June 2020 = **\$14.60** per hour.
- On June 1, 2021 = **\$15.20** per hour.
- Can be more, but can never be less, regardless of how employees are paid – hourly, salary, commission or an incentive basis.



# Minimum Wage Exceptions

- Liquor servers: **\$12.70**/hour
- Live-in home support workers: **\$113.50**/day
- Live-in camp leaders: **\$110.87**/day
- Resident caretakers: depends on number of suites
- Farm workers – minimum wage varies depending on crop (apples \$21.06/bin, blueberries \$1.077 per kg, etc.)



# Tips/Gratuities

- Employers are prohibited from:
  - withholding tips or gratuities
  - deducting amounts from the tips, or
  - requiring tips to be turned over to the employer
- Tip pooling is permitted; however, employers may not share in the tip pool
  - Exception: the employer performs the same work as some or all of the employees who share in the pool



# Child Employment Protections

- The age a child may work raised from 12 to 16
  - Exemption for 14 and 15 year olds to perform “light work” that is safe for them
- New restrictions on hazardous work that may be performed by 16 and 17 year olds



# Filing Complaints with the Employment Standards Branch

## Complaint

- Must be in writing and delivered to an office of the Employment Standards Branch;
- May be submitted online, mailed, faxed or delivered in person;
- Must be delivered within six months of last day of work or, if still employed, within six months of contravention.

## What to include:

- Complaint form
- Record of hours worked (pay cheques, wage statements, daily time records, and/or Record of Employment, if available)



# Keeping a detailed record

- The dates, times, and locations where the employee worked
- A description of the employees' tasks throughout their shifts
- Was anyone a witness to the employees' work? If so, make a record of this information and ask for written statements from these people (include name, address, phone no.)
- If the employee contacted others for help keep a written record of whom they called, what was said, and what if any action was taken
- Text messages, emails, voice mails from the employer
- Photos, particularly for overtime work
- Pay cheques, wage statements, Record of Employment



# Current Processes

- *No more self-help kit!*
- Mediation - informal
- Investigation – formal, no hearing
- Adjudication – formal, with hearing
- Determinations – written decisions, mandatory penalties
- Appeals – Employment Standards Tribunal

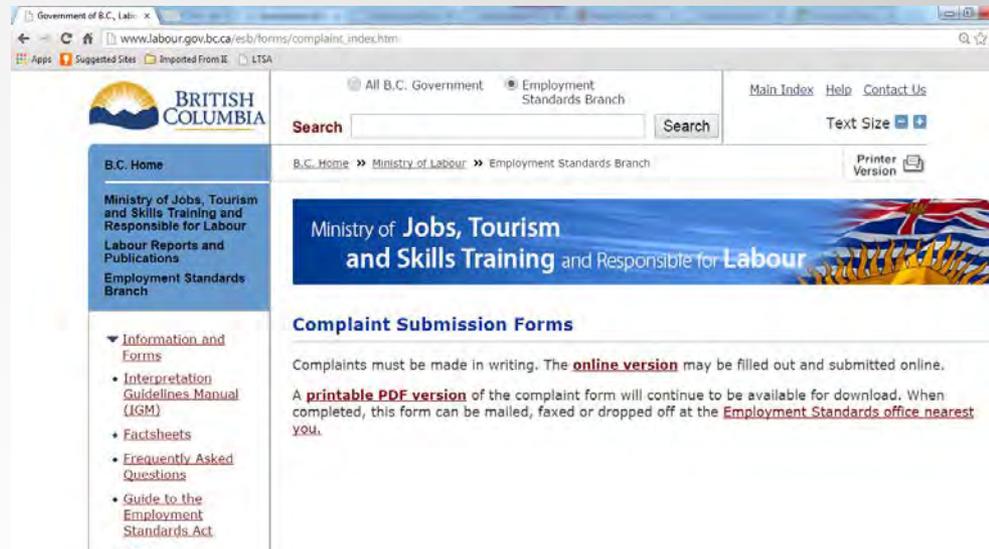
# How to Contact the Branch

- Web site:

<https://www2.gov.bc.ca/gov/content/employment-business/employment-standards-advice/employment-standards>

- Toll Free Info-line: 1-833-236-2700

- Branch offices (10 locations)



The screenshot shows a web browser window displaying the British Columbia Employment Standards Branch website. The page title is "Complaint Submission Forms". The header includes the British Columbia logo, navigation links for "All B.C. Government" and "Employment Standards Branch", and a search bar. The main content area features a banner for the "Ministry of Jobs, Tourism and Skills Training and Responsible for Labour" and a section titled "Complaint Submission Forms". Below this section, there is text stating: "Complaints must be made in writing. The [online version](#) may be filled out and submitted online. A [printable PDF version](#) of the complaint form will continue to be available for download. When completed, this form can be mailed, faxed or dropped off at the [Employment Standards office nearest you](#)."

# Can choose court

- Can enforce employment contracts in court
- Consider this option if:
  - The employee is past the 6 month time limit for Employment Standards Branch OR
  - Part of claim is not covered under the *Employment Standards Act* OR
  - The employee wants to claim more than the minimum severance OR
  - The employee has suffered health consequences because of employers breach

# Temporary Foreign Worker Protection Act



PHOTO COURTESY OF MICHELLAURENCE/FICKR

- Press conference at the BC Legislature in Victoria, BC on October 15th 2018.
- The photo includes members of the following organizations: Migrant Workers Centre, Bayanihan Centre in Victoria, BC Federation of Labour, BC Employment Standards Coalition, Together Against Poverty Society in Victoria, Rising Up Against Unjust Recruitment campaign, Migrante BC, and SFU Labour Studies.



# Overview - New Legislation (TFWPA)

- The legislation establishes the framework for:
  - A new **licensing** requirement for foreign worker recruiters.
  - A new **registration** requirement for those wishing to hire foreign nationals.
- Includes criteria for issuing, refusing, suspending or cancelling a licence or registration.
- Includes a complaints process – including for “prohibited practices”.
- Intent is to address situations where foreign workers are vulnerable.
- No registration of individual workers.



# How the TFWPA Protect Migrant Workers – Prohibited Practices

- Charging of fees and expenses for recruitment or employment.
- Producing or distributing false or misleading information relating to recruitment services, immigration, immigration services, employment, housing for foreign workers or the laws of BC or Canada.
- Taking possession of or retaining a foreign national's passport.
- Misrepresenting employment opportunities, including respecting a position, duties, length of employment, wages and benefits or other terms of employment.
- Threatening deportation or other action for which there is no lawful cause.
- Taking action or threatening to take retaliatory action for filing a complaint or participating in an investigation or proceeding.

# New Recruiter Licence & Registry

- As of October 1, 2019, licences are required for foreign worker recruiters operating in BC; only individuals are licensed, not corporations.
- There is no fee to obtain a license, there is a requirement to post a \$20,000 surety.
- Licences are published online and form the “registry” of foreign worker recruiters, which can be searched.
- Operating without a license -> liable for fine up to \$10,000
- Employer who uses recruiter must ensure they are licensed



# Agents, Partners and Affiliates

- Licensees must disclose their partners, agents and affiliates inside and outside of BC, and will be responsible for ensuring that they also comply with the Act.
- Powerful new tool for worker protection – to hold the recruiter licensed in BC responsible for the illegal activity of agents, partners or affiliates outside of BC’s jurisdiction.
- Recruiter responsible for activities like misrepresentation of a job opportunity or wage in another country or province.



# Employer Registration

- Employers of foreign nationals will need to be registered in the future (upcoming legislative changes)
- Certification of Registration for employers of foreign nationals – employers planning to hire or those who have currently hired temporary foreign nationals.
- No fee for employers to register.
- Director of TFWPU can issue or deny certification of registration. If certificate of registration issued, Director may cancel, amend or suspend licence if any concerns.

# Obligations

- A recruiter dealing with foreign nationals and employers must have a signed, written contract with foreign nationals and employers
- A recruiter and employer must provide foreign nationals and foreign workers information about their rights under TFWP Act and Regulation
- Offences – a person who contravenes the Act is guilty of an offence and liable on summary conviction as follows:
  - For an individual, a fine of not more than \$50,000 or imprisonment for a term of not more than one year or both
  - For a corporation, a fine of not more than \$100,000
- Any questions – call 1-833-236-3700 or e-mail at [BCTFW.ProtectionUnit@gov.bc.ca](mailto:BCTFW.ProtectionUnit@gov.bc.ca)

# Temporary Foreign Worker Program



PHOTO COURTESY OF MICHELLAURENCE/FICKR

# Changes to the Caregiver Program

(As of June 18, 2019)

- 2 new pilot programs: Home Child Care Provider Pilot and Home Support Worker Pilot
- Caregivers will now receive occupation-specific work permits, and their spouses can apply for an open work permit!!
- Application for PR from outside of Canada; approval contingent upon completing 24-months of work in Canada
- English language test – language benchmark 5
- Completion of 1 year of Canadian post-secondary or its equivalent
- LMIA no longer required



# New Agri-Food Pilot Program

- Announced by IRCC on July 12, 2019
- Will begin accepting applications in early 2020
- Eligible occupations: butchers; meat processing labourers; harvesting labourers and general farm workers for year-round mushroom production, greenhouse crop production, or livestock raising; farm supervisors and specialized livestock workers
- 12-month work requirement
- English language test – benchmark level 4
- Completion of Canadian high school or its equivalent
- Indeterminate job offer from employer



# Open Work Permit for Vulnerable Workers

- Temporary Foreign Workers can receive a new open work permit with urgent processing if they are **currently experiencing abuse** or face a **risk of abuse** in the context of their employment in Canada
- Abuse includes: physical, sexual, psychological, financial
- Available to migrant workers **in Canada** who:
  - Currently hold a valid employer-specific work permit
  - Have applied to renew their employer-specific work permit and are on implied status
- Duration: up to 12 months
- Also available to spouse/children in Canada
- No application fees



# *Questions?*

**Natalie Drolet**

Executive Director/ Staff Lawyer

Migrant Workers Centre

302-119 West Pender Street

Vancouver, BC V6B 1S5

Telephone: 604-669-4482

Email: [natalie@mwcbc.ca](mailto:natalie@mwcbc.ca)



# Respect at Work Legal Clinic

**Legal Advice Phone Line:**

**604-404-1931**

- Tuesday and Thursday, 9am – 8pm
- Wednesday, Friday, and Saturday, 9am – 5pm

A free, confidential service for individuals who have faced sexual harassment at work



# Civil Resolution Tribunal

## **CRT Update**

Provincial Advocates Conference

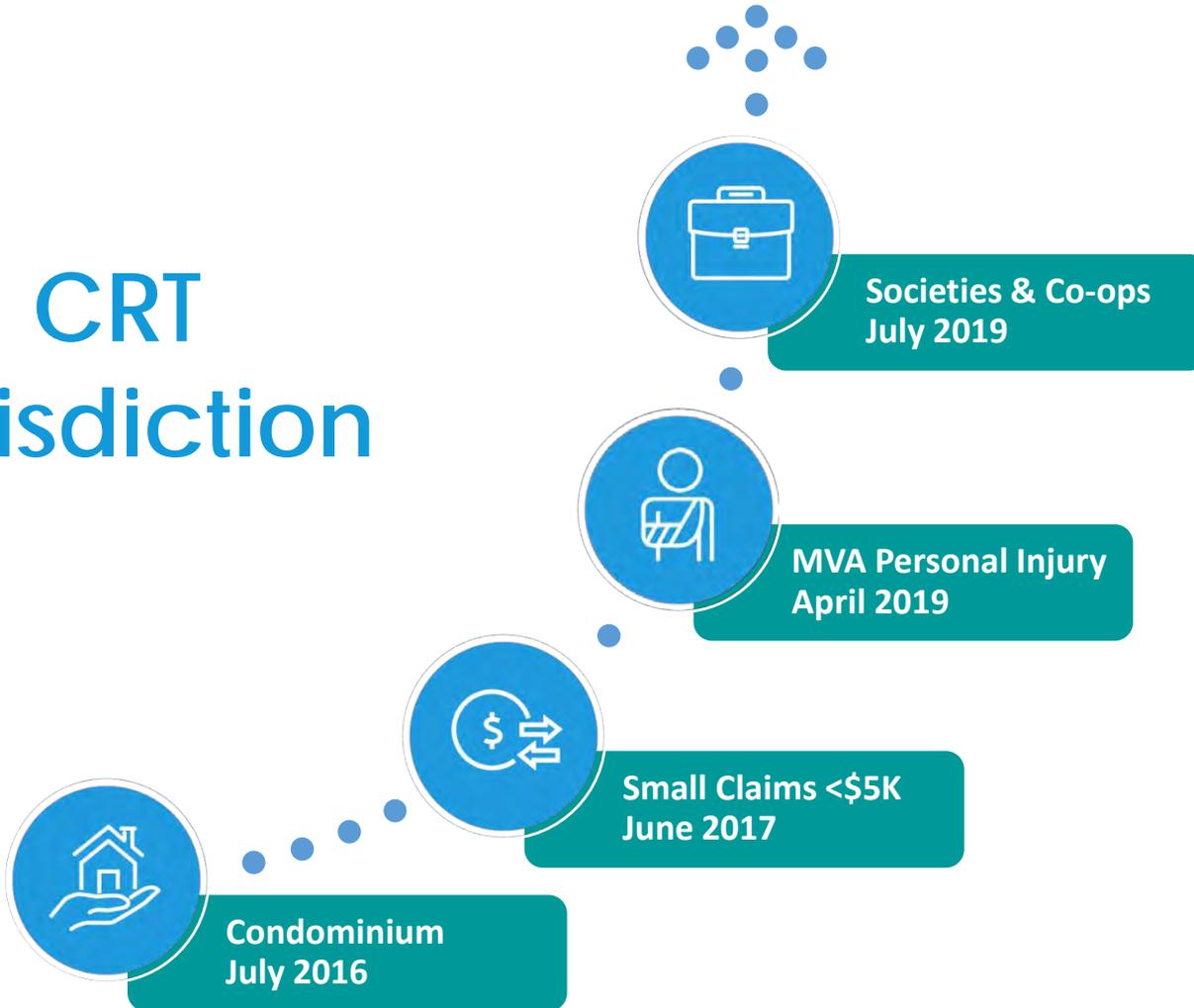
Shannon Salter, CRT Chair

October 10, 2019



@shannonnsalter  
@CivResTribunal

# CRT Jurisdiction



## How it works



### GET STARTED

Start with our Solution Explorer. It diagnoses your dispute. Free legal information and tools like customized letter templates can help you resolve your dispute on your own.



### APPLY

If you can't resolve your dispute on your own, you can apply to the CRT for dispute resolution. Apply directly from the Solution Explorer. It will send you to the right application form for your type of dispute.



### NEGOTIATE

Once your application is accepted, try our secure and confidential negotiation platform. You can talk through your dispute and try to reach an agreement by yourselves.



### REACH AN AGREEMENT

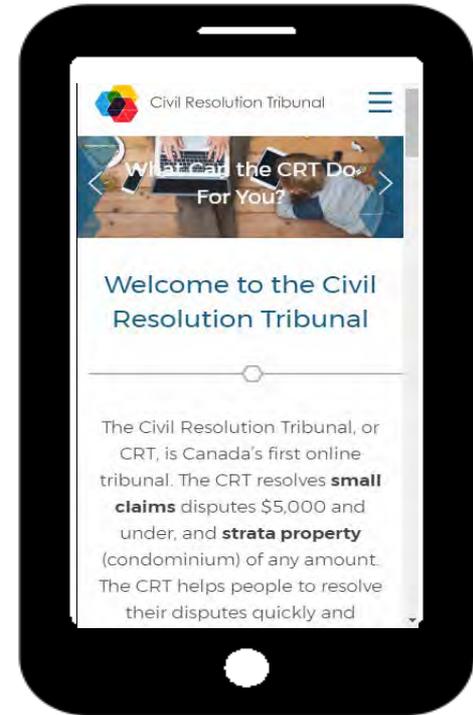
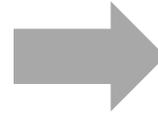
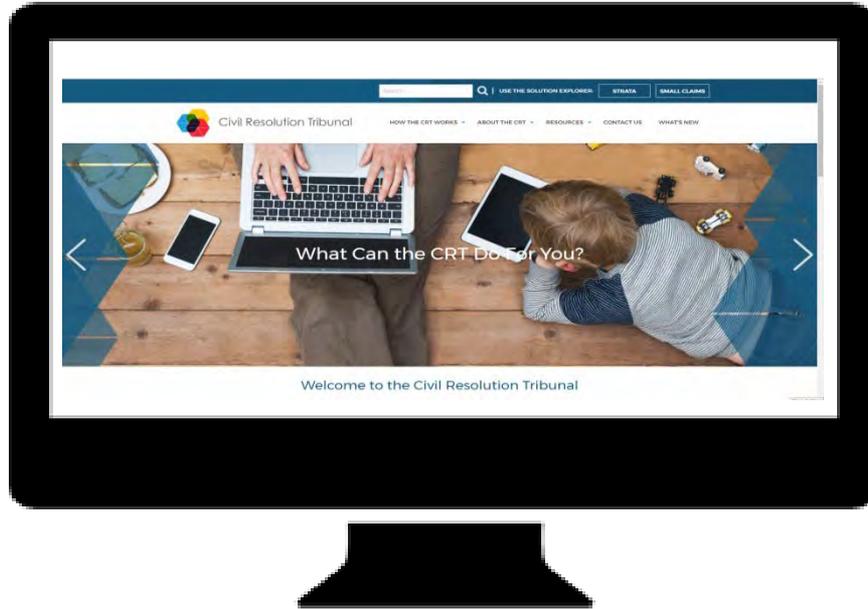
If you can't resolve your dispute by negotiation, a facilitator will try to help you reach an agreement. Agreements can be turned into orders, and be enforced like a court order.



### GET A DECISION

If you can't reach an agreement by negotiation or facilitation, an independent CRT member will make a decision about your dispute. This decision can also be enforced like a court order.

# Seamless, Responsive Design



Search...



GET STARTED

RESPOND TO A DISPUTE

DISPUTE LOGIN



Civil Resolution Tribunal

ABOUT THE PROCESS ▾

ABOUT US ▾

RESOURCES ▾

FAQ

CONTACT US

BLOG

Avoid the time, cost, and stress of going to court.



## Application Progress

Complete these steps to apply. Unless otherwise indicated, all information entered will be shared with all people in the dispute.

### Who Is Applying?

1. [Applicant](#)

Start

2. Applicant's Contact Person

### What Happened?

3. Accident Details

### What Do You Want?

4. Claim Types

5. Dispute-Related Expenses & Fees

6. Additional Details

### Application Summary

APPLICATION FOR  
Motor Vehicle Accident Injury

FEE  
[CRT Fee Schedule](#) 

STATUS  
0 of 7 steps of application complete

# Add Applicant

Enter the applicant below.

**Legal first name**

**Legal last name**

**Preferred first name (optional)**

**How does this applicant want to be addressed? (optional)**

We are asking so the tribunal can address you in a respectful manner.

✓

- She/Her/Hers – e.g. She claims that her...
- He/Him/His – e.g. He claims that his...
- They/Them – e.g. They claim that their...
- Other

(optional)

**i** The following information will not be disclosed to other people in the dispute

## Special Accommodations

In some circumstances, the tribunal will be able to provide [special accommodation](#) .

**Do you have any of the following that may require a special accommodation?** (optional)

Select all that apply

- Difficulty reading and writing
- English speaking difficulty
- Visual impairment
- Hearing impairment
- Mental health issues
- Other

**Continue**

## Applicant's Contact Person

- The contact person must be available and checking for communications during the tribunal process
- It's important to speak for yourself if you're able to
- If someone is just helping you we don't need to know
- If you want someone to speak for you as a representative there is an approval process
- Learn more about the difference between [helpers and representatives](#) 

## Who is the main person the tribunal should contact about the dispute?

- SHANNON SALTER (s)
- Someone else, who agreed to represent and speak for me

### Request Approval

Your request to use a [representative](#)  will be reviewed by the tribunal. You will be informed by the tribunal if the request is approved.

### Why are you requesting permission to use a representative?

You must provide information to satisfy the CRT that it is in the interest of justice and fairness to be represented.

Max 500 characters

### Who Are They?

First name

Last name

### How do they want to be addressed? (optional)

We are asking so the tribunal can address them in a respectful manner.

### Are they a lawyer?

Yes

No

What is their relationship to you?

## How do you want to pay?

**Online (credit card)**  
You'll go a secure payment page and come back when done

**In person**

**Mail (cheque or money order only)**  
You're responsible for the cost of mailing your payment

**Request a fee waiver**  
Each person in your household will need to qualify for a fee waiver [Learn about fee waivers](#) 

Continue

### Payment Information

**Amount**

\$75

\$100 fee for dispute resolution services,  
with a \$25 discount for online filing

**Payment due by**

October 23, 2019

**ⓘ If payment not received**

If the CRT does not receive a response by the above deadline, the GRT may decide to a) hear the dispute without your further participation; b) refuse to resolve the dispute; or c) dismiss your dispute.

**Dispute number** SC-2019-008287

**Payment code** P0018425

## Payments

## Fee waiver request

## Are you on any of the following?

- British Columbia Income Assistance
- British Columbia Income and Disability Assistance
- Canada Guaranteed Income Supplement

No  Yes

## Please confirm

- I certify that this is true and that I do not have any other source of income that would enable me to pay these fees.
- I understand that, under section 92 of the [Civil Resolution Tribunal Act](#), a person who provides false or misleading evidence or other information in a tribunal proceeding commits an offence and is liable on conviction to a fine of \$10,000 or imprisonment for term not longer than 6 months, or both.
- I understand that the Civil Resolution Tribunal may at any time review my request for a fee waiver and I may be required to provide documents to confirm my answers above.

or

## Payment Information

## Amount

\$75

\$100 fee for dispute resolution services,  
with a \$25 discount for online filing

## Payment due by

October 23, 2019

**ⓘ If payment not received**

If the CRT does not receive a response by the above deadline, the CRT may decide to a) hear the dispute without your further participation; b) refuse to resolve the dispute; or c) dismiss your dispute.

Dispute number SC-2019-008287

Payment code P0018425

# Inclusivity is a Core Value



## Advocates' Roster

- Focus of testing and consultation
- Optional
- 1 hour session
- Do it from your desk
- Real time change
- Small gift card as thank you



# Statistical Snapshot

## CRT Statistics Snapshot – September 2019



*Do you like data? We do! Here's our monthly report of key statistics.*

*If there's information you would like to see added to our monthly reports, please contact us. We will do our best to include it.*

## Solution Explorer Statistics - September 2019

Small Claims explorations	58,564
Strata Property explorations	26,806
Motor Vehicle Accidents and Injuries explorations	3,365
Societies and Cooperative Associations explorations	368

## All Disputes - September 2019

Total disputes	13,039
New disputes received this month	471
Total outstanding disputes	1,533
Total completed disputes	11,506
Total disputes resolved by adjudication (CRT member decision)	1,945
Total default and non-compliance decisions	4,152

# Participant Satisfaction

## Participant Satisfaction Survey – September 2019



*The Civil Resolution Tribunal anonymously surveys people who have gone through the tribunal process. We use this feedback to improve the way we serve the public. We report the cumulative results every month on this blog.*

We had 59 responses to our satisfaction survey in September 2019. We're pleased to report that participant satisfaction remains strong.

### CRT Participant Satisfaction Aggregated Rates - September 2019

**Professional:** 91% agreed that CRT staff were professional in each interaction.

**Easy to use:** 69% felt the CRT's online services were easy to use.

**Informed:** 81% agreed the CRT provided information that prepared them for dispute resolution.

**Timely resolution:** 76% felt their CRT dispute was handled in a timely manner.

**Accessible:** 69% found the CRT process easy to understand.

**Fair treatment:** 85% felt the CRT treated them fairly throughout the process.

**84% would recommend the CRT to others.**

# Help for Advocates



Richard Rogers

**CRT Executive Director & Registrar**

Cell: 1 (250) 507-6974



A faster road  
to resolving  
your ICBC  
dispute starts  
online



#### EXPLORE

Your options with free legal information  
and tools



#### NEGOTIATE

Facilitation to help you reach an agreement



#### GET A DECISION

If you can't reach an agreement, an independent  
CRT member will make an enforceable decision

**Take the online road to resolution!**

Visit: [civilresolutionbc.ca](http://civilresolutionbc.ca)



Civil Resolution Tribunal

# More Information

## Email

[info@crtbc.ca](mailto:info@crtbc.ca)

## Twitter

[@CivResTribunal](https://twitter.com/CivResTribunal)

[@shannonnsalter](https://twitter.com/shannonnsalter)

## Facebook

Civil Resolution Tribunal

[www.civilresolutionbc.ca](http://www.civilresolutionbc.ca)



# Travelling Wills Clinic Feasibility Study

Making Free Planning Documents (Last Will, Enduring Powers of Attorney & Representation Agreement) for Low Income Adults Outside the Lower Mainland

Review of documents and procedures, discussion of proposals

*October, 2019*

# AGENDA



1. Introduction
2. Last Will
3. Substitute Decision Making
4. Powers of Attorney
5. Representation Agreements
6. Office Procedures
7. MyLaw BC
8. Planning Document Nights
9. Proposals: Travelling Wills Bus; Navigators, Tariff
10. Questions for Discussion

NOT COVERED - Alternatives, Land Titles, renunciation .

# INTRODUCTION

Terminology, introduction to documents and structure



# Terminology

## Last Will

**Will-Maker** – person who sets out wishes and appoints someone to manage their estate (pre-WESA – “testator/rix”)

**Executor(rix)** – the person receiving authority to manage someone else’s finances & legal matters (their ‘estate’) affairs after they have died

**Last Will** – the instrument that creates the position of executor and provides directions on administering the estate

## Power of Attorney

**Donor** – a person who appoints someone to stand in her shoes for financial and legal matters through a power of attorney (aka - “the adult”)

**Attorney** – the person receiving authority to manage someone else’s finances & legal affairs

**Power of Attorney** – the instrument that creates the relationship of donor & attorney, and empowers the attorney

## Representation Agreement

**Adult** – a person who makes an agreement with someone to speak and decide on their behalf regarding medical and personal care matters.

**Representative** – the person receiving authority re care.

**Representation Agreement** – creates relationship of adult & representative, and empowers the representative

# Law of Agency

Each of these documents appoints an 'agent' to act on behalf of the adult:

1. **Executor** - deal with body & property (and dependants) after death
2. **Attorney** - deal with property & legal matters before death
3. **Representative** - deal with health & personal care before death



# Care in Choosing Agent

## Last Will

**Will-Maker** - should appoint someone:

- willing to act,
- familiar with the estate,
- young enough to outlive him or her, and,
- (preferably) living in B.C.

## Power of Attorney

**Donor** - should appoint someone:

- willing to act,
- good at record keeping, financial acumen
- familiar with their property and legal matters, and,
- (preferably) living in B.C.

**NOTE** - they need to appoint someone they implicitly trust. They are giving this person a 'license to steal.'

## Representation Agreement

**Adult** - should appoint someone:

- willing to act,
- familiar with their wishes and values, and,
- (preferably) living in B.C.

**NOTE** - studies have shown parents often wrongly believe their child understands their wishes and values (wrong 50% of the time)

# 'Standard Building Blocks' - Last Will

1 - Domicile Clause	<ul style="list-style-type: none"><li>• Name of Will Maker and where Will was made (and occupation)</li><li>• Name of First Nations Band if member</li></ul>
2 - Revocation Clause	<ul style="list-style-type: none"><li>• Revocation of any previous testamentary instruments</li></ul>
4 - ID of agent	<ul style="list-style-type: none"><li>• Name &amp; address of executor(rix)/trustee</li><li>• Name of an co-executors or alternate(s)</li></ul>
5 - Vesting Clause	<ul style="list-style-type: none"><li>• Power to deal with Estate as executor sees fit</li><li>• Sell Assets, Convert</li><li>• Paying off all debts</li></ul>
6 - Gifts/Bequests	<ul style="list-style-type: none"><li>• Specific Bequests of articles (items in kind)</li><li>• Cash Legacies (lump sum payments)</li><li>• &amp; Residue (remainder)</li></ul>
5 - Guardian Clause [underage children]	<ul style="list-style-type: none"><li>• Guardian of minor children (important if both parents die at same time)</li><li>• Will likely also set up a trust for minor children (o/wise PGT)</li></ul>
7 - Funeral Wishes	<ul style="list-style-type: none"><li>• Directions re funeral/cremation/donation</li><li>• Reference to specific cultural practices</li></ul>
8 -Execution/Attestation Clause	<ul style="list-style-type: none"><li>• Signatures of:<ul style="list-style-type: none"><li>• Adult - testifying that they are signing an approved Will</li><li>• Two Witnesses together saw Will-maker approve of and sign Will</li></ul></li></ul>

# 7 Common 'Building Blocks' - EPOA & RAs

1 - Domicile, Intro	<ul style="list-style-type: none"><li>• Province of origin</li><li>• Title (type) of instrument</li></ul>
2 - ID & Date	<ul style="list-style-type: none"><li>• Name &amp; address of adult creating instrument</li><li>• Date instrument created</li></ul>
3 - Revocation	<ul style="list-style-type: none"><li>• Revocation of any previous instruments</li></ul>
4 - ID of agent	<ul style="list-style-type: none"><li>• Name &amp; address of agent (attorney or representative)</li><li>• Name of any alternate(s)</li></ul>
5 - Authority	<ul style="list-style-type: none"><li>• Reference to statutory authority empowering agent</li></ul>
6 - Effective	<ul style="list-style-type: none"><li>• Date instrument is effective (usually once signed)</li></ul>
7 - Signatures	<ul style="list-style-type: none"><li>• Signatures of:<ul style="list-style-type: none"><li>• Adult</li><li>• Agent</li><li>• Witness(es)</li></ul></li></ul>

# EPOA & RAs

## Power of Attorney (Enduring)

BRITISH COLUMBIA

**ENDURING POWER OF ATTORNEY**

Make under Part 2 of the *Power of Attorney Act*.  
The use of this form is voluntary. Be advised that this form may not be appropriate for use by all persons, as it provides only one option of how an Enduring Power of Attorney may be made. In addition, it does not constitute legal advice. For further information, please consult the *Power of Attorney Act* and *Power of Attorney Regulation* or obtain legal advice.  
This form reflects the law at the date of publication. Laws can change over time. Before using this form, you should review the current legislation to ensure that there have not been any changes to the legislation or section numbers.  
The notes referenced in this Enduring Power of Attorney are found at the end of this document and are provided for information only.

1. THIS ENDURING POWER OF ATTORNEY IS MADE BY ME, THE ADULT:

Full signature of the Adult	Date (YYYY/MM/DD)
Full address of the Adult	

2. REVOCATION OF PREVIOUS INSTRUMENTS  
(See Note 1 – actions that must be taken to revoke previous instruments)  
(See Note 2 – effect of revocation on previous instruments)  
I revoke all of the following made by me:

- all previous Enduring Powers of Attorney;
- all previous Representation Agreements granting authority under either section 7 (1) (b) or section 7 (1) (c) of the Representation Agreement Act, or both.

3. ATTORNEY  
(See Note 3 – who may be named as Attorney)  
I name the following person to be my Attorney in accordance with Part 2 of the *Power of Attorney Act*:

Full signature of Attorney
Full address of Attorney

4. ALTERNATE ATTORNEY (OPTIONAL)  
(See Note 3 – who may be named as Attorney)  
(See Note with provision if you do not want to appoint an Alternate Attorney)  
I name the following person to be my Alternate Attorney in accordance with Part 2 of the *Power of Attorney Act*, and authorize that person to act in place of my Attorney as my Alternate Attorney if my Attorney resigns in accordance with section 25 of the *Power of Attorney Act*, or the authority of my Attorney ends under section 29 (2) (c) of the *Power of Attorney Act*.

Full signature of Alternate Attorney
Full address of Alternate Attorney

If so acting, my Alternate Attorney has all the authority granted to my Attorney in this Enduring Power of Attorney.

5. EVIDENCE OF AUTHORITY OF AN ALTERNATE ATTORNEY  
(See Note 4 – statutory declaration for evidence of authority of Alternate Attorney)  
(See Note with provision if you are not appointing an Alternate Attorney)  
A statutory declaration made by me, my Attorney, or my Alternate Attorney (one is named), declaring that one of the circumstances referenced in section 4 of this Enduring Power of Attorney has occurred, and specifying that circumstance is sufficient evidence of the authority to my Alternate Attorney to act as my Attorney.

PUBLISHED BY THE ATTORNEY GENERAL OF BRITISH COLUMBIA, SEPTEMBER 2011 PAGE 1 OF 4

## Representation Agreement (s 7 – standard powers)

BRITISH COLUMBIA

**REPRESENTATION AGREEMENT (SECTION 7)**

Make under Section 7 of the *Representation Agreement Act*.  
The use of this form is voluntary. Be advised that this form may not be appropriate for use by all persons, as it provides only one option of how a Representation Agreement may be made. In addition, it does not constitute legal advice. For further information, please consult the *Representation Agreement Act* and *Representation Agreement Regulation* or obtain legal advice.  
This form reflects the law at the date of publication. Laws can change over time. Before using this form, you should review the current legislation to ensure that there have not been any changes to the legislation or section numbers.  
The notes referenced in this Representation Agreement are found at the end of this Agreement and are provided for information only.

1. THIS REPRESENTATION AGREEMENT IS MADE BY ME, THE ADULT:

Full signature of the Adult	Date (YYYY/MM/DD)
Full address of the Adult	

2. REVOCATION OF PREVIOUS REPRESENTATION AGREEMENTS  
I revoke all previous Representation Agreements granting authority under section 7 of the *Representation Agreement Act* made by me:

- (See Note 1 – actions that must be taken to revoke a previous Representation Agreement)
- (See Note 2 – effect of revocation on a previous section 7 Representation Agreement)

3. REPRESENTATIVE  
(See Note 3 – naming a Representative)  
I name the following person to be my Representative:

Full signature of Representative
Full address of Representative

4. ALTERNATE REPRESENTATIVE (OPTIONAL)  
(See Note 3 – naming a Representative)  
(See Note with provision if you do not want to appoint an Alternate Representative)  
If my Representative:

- dies;
- resigns in accordance with the *Representation Agreement Act*;
- is my spouse, as defined in the *Representation Agreement Act*, at the time that I make this Representation Agreement, and our marriage or marriage-like relationship subsequently terminates as set out in the *Representation Agreement Act*; or
- becomes incapable,

then I name the following person to be my Alternate Representative:

Full signature of Alternate Representative
Full address of Alternate Representative

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## Representation Agreement (s 9 – enhanced powers)

BRITISH COLUMBIA

**REPRESENTATION AGREEMENT (SECTION 9)**

Make under Section 9 of the *Representation Agreement Act*.  
The use of this form is voluntary. Be advised that this form may not be appropriate for use by all persons, as it provides only one option of how a Representation Agreement may be made. In addition, it does not constitute legal advice. For further information, please consult the *Representation Agreement Act* and *Representation Agreement Regulation* or obtain legal advice.  
This form reflects the law at the date of publication. Laws can change over time. Before using this form, you should review the current legislation to ensure that there have not been any changes to the legislation or section numbers.  
The notes referenced in this Representation Agreement are found at the end of this Agreement and are provided for information only.

1. THIS REPRESENTATION AGREEMENT IS MADE BY ME, THE ADULT:

Full signature of the Adult	Date (YYYY/MM/DD)
Full address of the Adult	

2. REVOCATION OF PREVIOUS INSTRUMENTS  
(See Note 1 – actions that must be taken to revoke a previous Representation Agreement)  
(See Note 2 – effect of revocation on previous Representation Agreements)  
I revoke all of the following made by me:

- all previous Representation Agreements granting authority under section 7 of the *Representation Agreement Act*;
- all previous Representation Agreements granting authority under section 9 of the *Representation Agreement Act*.

3. REPRESENTATIVE  
(See Note 3 – who may be named as Representative)  
I name the following person to be my Representative:

Full signature of Representative
Full address of Representative

4. ALTERNATE REPRESENTATIVE (OPTIONAL)  
(See Note 3 – who may be named as Representative)  
(See Note with provision if you do not want to appoint an Alternate Representative)  
If my Representative:

- dies;
- resigns in accordance with the *Representation Agreement Act*;
- is my spouse, as defined in the *Representation Agreement Act*, at the time that I make this Representation Agreement, and our marriage or marriage-like relationship subsequently terminates as set out in the *Representation Agreement Act*; or
- becomes incapable,

then I name the following person to be my Alternate Representative:

Full signature of Alternate Representative
Full address of Alternate Representative

PUBLISHED BY THE ATTORNEY GENERAL OF BRITISH COLUMBIA, SEPTEMBER 2011 PAGE 1 OF 2

These are the 'fill-in-the-blanks' pdfs available from the Ministry of Health website

October, 2019

Legal Advocate Training Conference

9

# Some Common Provisions

- **Witnessing** - how many, and who is prohibited?
- **Multiple agents** - how they decide - majority rule?; consensus: independently?
- **Alternates** - provision if main agent unable/unwilling to act
- **Revoking** - provision to revoke any previous conflicting documents

# Issues That May Arise

## Capacity?

- Does the adult have the capacity to appreciate the nature and consequences of what they are doing?
- This is a legal question, not a medical one.

## 3<sup>rd</sup> Parties?

- Adult often accompanied by a family member or friend
- Who is the client?
- Is there a conflict of interest?

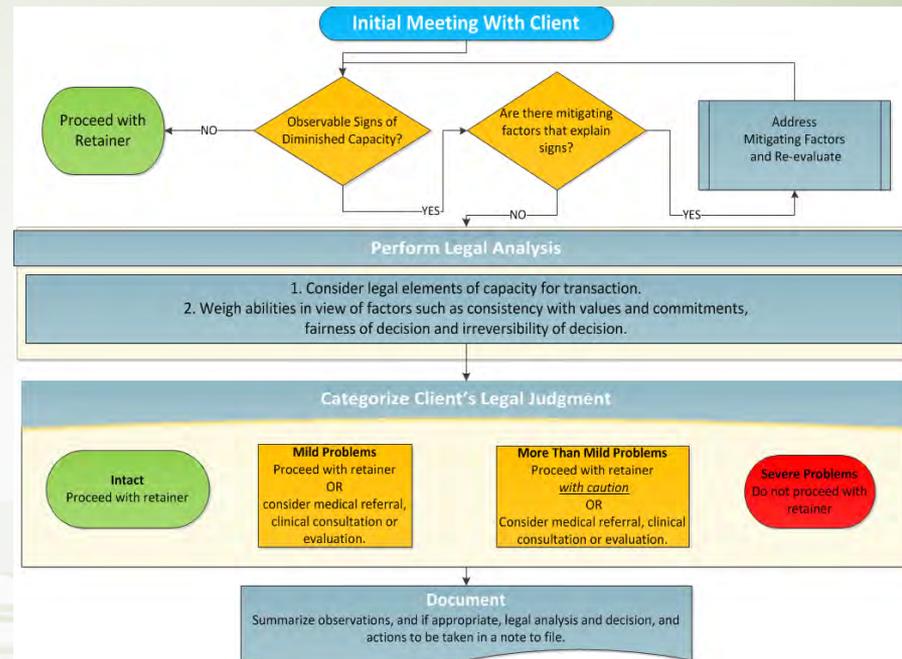
## Undue Influence

- Is the adult acting 'of their own free will, without any 'undue influence' (some 'influence' is okay) when deciding what to do and who to appoint?

# Assessing Capacity

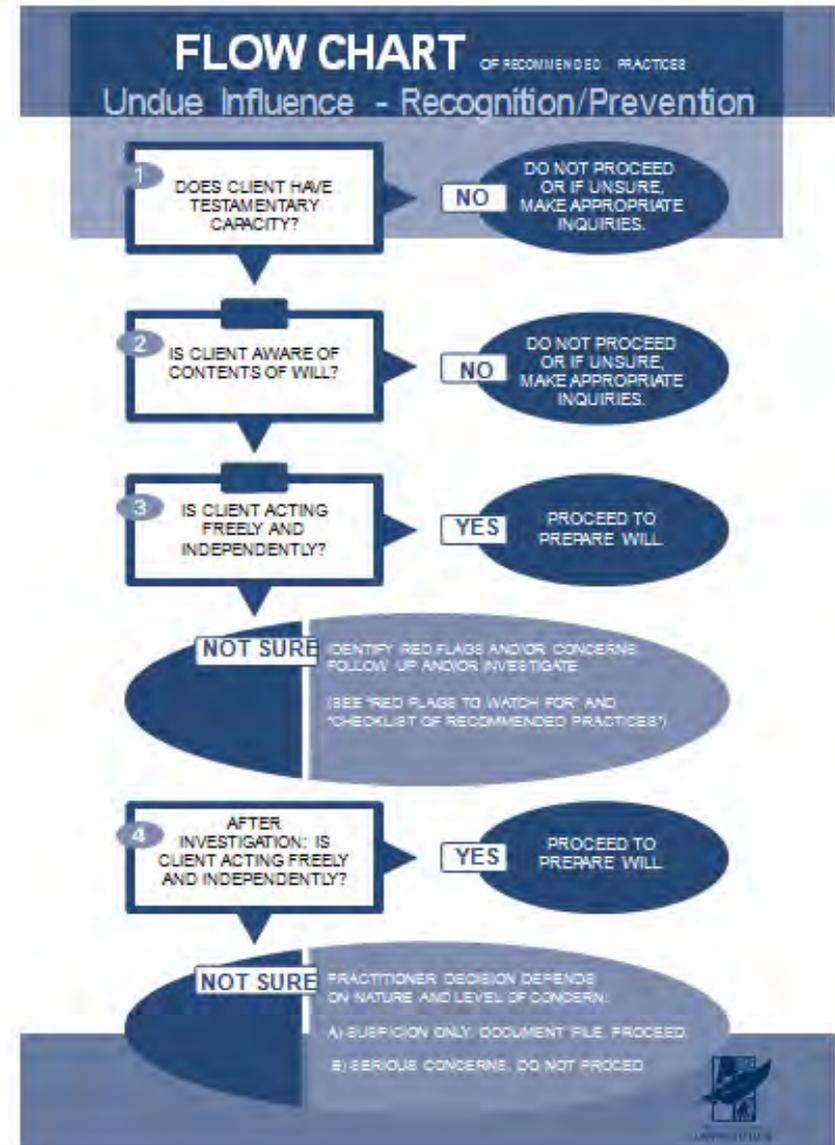
In general, when you assess the capacity of a person to make a particular decision, you are considering whether or not the person, at that point in time:

- is able to understand the facts involved in that decision;
- knows the main choices that exist;
- can assess the consequences of the choices;
- can understand how the consequences affect them and their situation; and,
- can communicate their decision.



## Assessing whether Undue Influence Exists

- ✓ If Red Flags Are Present, Ask Non-Leading Questions to Determine What Factors Are Operating on Adult's Mind
- ✓ Explore Whether Adult Is In a Relationship of Dependency, Domination or Special Confidence or Trust
- ✓ Explore Whether Adult Is A Victim of Abuse In Other Contexts
- ✓ Obtain Relevant Information from Third Parties When Possible



# Assessing Whether a Conflict of Interest Exists

To determine whether you are prohibited from acting due to a conflict of interest, there are two processes, each with 3 steps:

First, determine if there is a conflict of interest (Steps 1-3).

Second, if there is a conflict of interest, determine whether you may act despite the conflict of interest (Steps 4-6).

NOTE - to be able to act where a conflict exists but you don't believe there will be a material adverse effect, you would still require written informed consent from all of the affected clients.





Making your wishes known, and empowering another to look after your estate.

# LAST WILL

# For A Valid Will

To make a valid will, a person must be:

- 19 years of age or older (or be within a recognized exception)(WESA - 16yrs);
- have testamentary capacity;
- intend to make a will; and
- comply with the formalities in the *Wills Estates and Succession Act* ('WESA').

Last Will and Testament	
I <u>John Smith</u>	
of <u>1 Nowhere Road, Nowhere Town, England, NR1 1NT</u>	
revoke all former wills and testamentary dispositions made by me and declare this to be my last will and testament.	
I appoint <u>Alice Smith</u>	
to be sole executor of this will	
and I give to <u>Alice Smith</u>	
absolutely all my real and personal property whatsoever and wheresoever.	
IN WITNESS of which I have set my hand to this my will this	
<u>14th</u> day of <u>March 2006</u>	
Signed by the above named <u>John Smith</u>	
in our presence and by us in his	
Signature: <u>John Smith</u>	
Print Name: <u>John Smith</u>	
First Witness	
Signature: <u>Alfred Jones</u>	Print Name: <u>Alfred Jones</u>
Address: <u>2 Nowhere Road, Nowhere Town, England, NR1 1NT</u>	
Second Witness	
Signature: <u>Mabel Jones</u>	Print Name: <u>Mabel Jones</u>
Address: <u>2 Nowhere Road, Nowhere Town, England, NR1 1NT</u>	

# Types of Wills

## Holograph

- Written by hand, not witnessed (may now be allowed in BC)

## Mirror Wills

- For a couple with similar wishes
- Each leaves bulk of estate (minus some gifts) to other and names other as executor

## Mutual Wills

- Testator agrees not to change or revoke their will without permission of spouse
- Not very common now



Reasons for advance planning documents.

# SUBSTITUTE DECISION MAKING

# Substitute Decision Maker

- A person may become incapable at a point in his or her life due to illness, disability or accident (e.g. - brain injury) .
- If an adult is, or becomes incapable, another person (or persons) can become the substitute decision-maker(s), who acts on the wishes and values of the incapable adult.

# Appointing Substitute Decision Maker

A substitute decision-maker can be appointed in either of the following ways:

- A capable adult can name the substitute decision-maker(s) in an Advance Planning Document (e.g. in a Enduring Power of Attorney, a Representative Agreement); or
- An incapable adult may have a guardian (called a Committee (“kaw-mit-tay”) of Estate or Committee of Person, or both) appointed by the courts (or PGT appointed by statute) to make decisions.

# TSDM

- There might also be a “temporary substitute decision maker” (‘TSDM’) in health care
- If a health care provider is unable to get consent of patient, no Rep. Agreement or Advance Directive, and no appointed Committee of Person, then the health care provider will need to get consent from a TSDM
- Power of TSDM generally valid for 21 days - but for each new decision - provider finds TSDM

# Hierarchy of TSDMs

- The HCCFA provides a hierarchical, default list of TSDMs, as follows (s.16):
  - spouse/partner
  - adult child (over 19 years old)
  - parent
  - brother or sister
  - grandparent
  - grandchild
  - other relatives by birth or adoption (not in-laws or step-children)
  - close friend
  - person immediately related by marriage (includes in-laws or step-children)

# Hierarchy of Substitute Decision Makers

**'Committee of the Person'**

- court appointed

**'Representative'**

- under Representation Agreement

**Advance Directive**

- you yourself speaking through a document

**Temporary Substitute Decision Maker ("TSDM") -  
family member or friend**



Empowering another re financial and legal matters.

# POWER OF ATTORNEY

# Definition of Power of the Attorney

There is no definition of a 'power of attorney' in the Act. It seems to assume that everyone knows it is:

*a legal instrument giving power from one (competent) adult (the donor) to another (competent) adult (the attorney) to do certain things or take actions on the donor's behalf regarding financial and legal matters.*

# Powers of the Attorney

A power of attorney does not permit an attorney to:

- Consent to marriage or civil union
- Vote
- Adopt a child or place a child up for adoption
- Make a will or dispose of testamentary gifts  
(property donor bequeathed in their will)

# Types of Powers of Attorney

1. **General** - effective at once, ends on incapability, revocation or death
2. **Limited** - less common - like general, but for specific purpose(s) and/or limited periods of time
3. **Enduring** - most common now - active now and continues into incapability until revocation or death
4. **Springing** - somewhat common - not active until incapability (or other 'trigger') and with capability trigger, ends if the donor regains capability or death

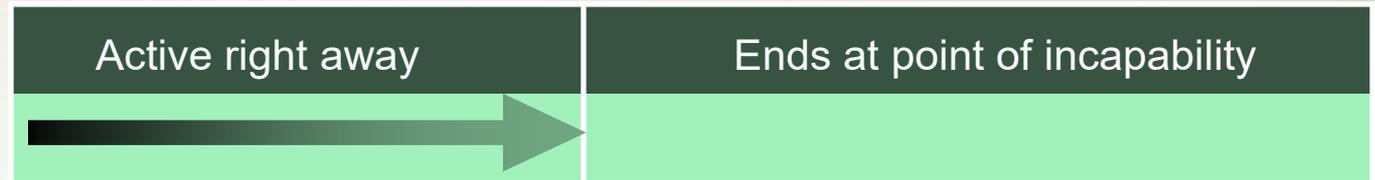
*NOTE: These categories are not mutually exclusive - an EPOA or Springing POA can be limited*

# Capacity & Effective Date of POAs

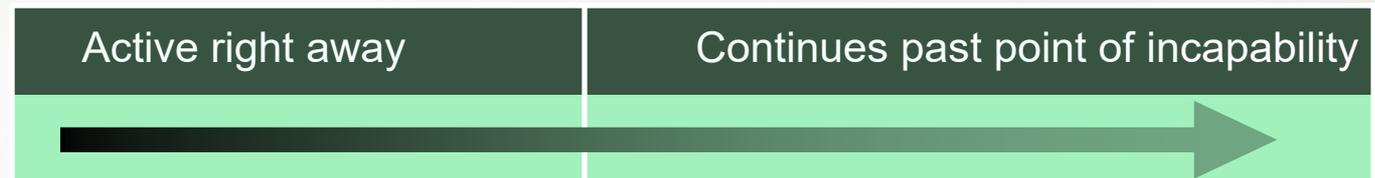
Capable

Incapable

**General:**



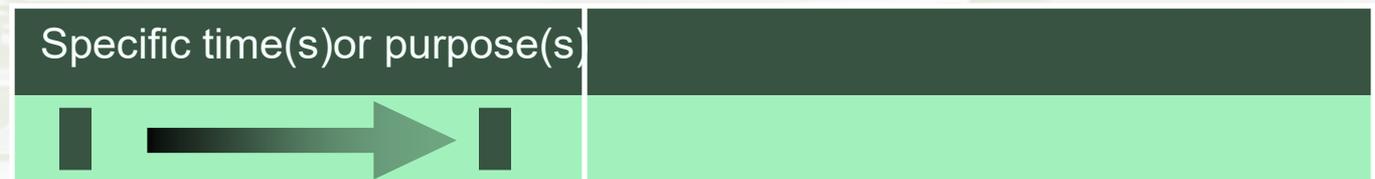
**Enduring:**



**Springing:**



**Limited:**



# Limited POAs

A POA can be very narrow in scope, allowing the Attorney(s) to do one specific act.

Examples:

- cashing a pension cheque
- transferring property
- paying insurance (ICBC)

Also 'snowbirds' will use limited time POAs while they are down south - becoming less common with online banking, etc.

## Simple EPOA

Has main building blocks:

1. Intro
2. ID & Date
3. Revocation Clause
4. Appointment Attorney
5. Effective Date
6. Signature Block

Includes a Authority & Capacity Clause - 'continuing' or 'enduring' authority

Also includes a clause that attorney not entitled to compensation, but will get reimbursement for reasonable expenses.

## ENDURING POWER OF ATTORNEY

THIS GENERAL ENDURING POWER OF ATTORNEY is given on August 15, 2012, by John Edward Smith, 123 Main Street, Vancouver, British Columbia.

### 1. Revocation of Prior Powers of Attorney

I revoke any and all previous Enduring Powers of Attorney, and any previous Representation Agreements granting authority under either section 7 (1) (b) or section 7 (1) (d) of the Representation Agreement Act, or both.

### 2. Appointment of Attorney

I appoint my friend and neighbour Paul John Jones, of 124 Main Street, Vancouver, British Columbia to be my attorney in accordance with Part 2 of the Power of Attorney Act, to make decisions on my behalf and to do on my behalf anything that I may lawfully do by an agent, in relation to my financial affairs.

### 3. Authority and Capacity

My Attorney may exercise the authority granted by this Enduring Power of Attorney while I am capable of making decisions about my financial affairs, and this authority continues despite my incapability to make those types of decisions.

### 4. Compensation

My attorney is not to be compensated for acting as my attorney. My attorney may still be reimbursed from my property for reasonable expenses properly incurred in acting as my attorney.

### 5. Effective Date

This Enduring Power of Attorney is effective on the date it has been signed by me and my Attorney.

Officer Signature

EXECUTION DATE

Donor's  
Signature

\_\_\_\_\_  
Kevin R. Smith, Barrister,  
Solicitor & Notary Public

Y	M	D
12	08	

\_\_\_\_\_  
John Edward Smith

Officer Signature

EXECUTION DATE

Attorney's  
Signature

\_\_\_\_\_  
Kevin R. Smith, Barrister,  
Solicitor & Notary Public

Y	M	D
12	08	

\_\_\_\_\_  
Paul John Jones

### OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C., 1996, c. 124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

# Capacity Test

The legislation sets out a six part capacity test. The adult must understand:

1. the property the adult has and its approximate value;
2. the obligations the adult owes to his or her dependants;
3. that the adult's attorney will be able to do on the adult's behalf anything in respect of the adult's financial affairs that the adult could do if capable, except make a will, subject to the conditions and restrictions set out in the enduring power of attorney;
4. that, unless the attorney manages the adult's business and property prudently, their value may decline;
5. that the attorney might misuse the attorney's authority;
6. that the adult may, if capable, revoke the enduring power of attorney



Empowering someone to speak/decide for you re health and personal care matters

# REPRESENTATION AGREEMENTS

# Definition

No definition of “representation agreement” in legislation, other than the rather tautological “means an agreement made under section 7 or 9.”

## Section 2 - Purpose of This Act

*The purpose of this Act is to provide a mechanism:*

- (a) to allow adults to arrange in advance how, when and by whom, decisions about their health care or personal care, the routine management of their financial affairs, or other matters will be made if they become incapable of making decisions independently, and*
- (b) to avoid the need for the court to appoint someone to help adults make decisions, or someone to make decisions for adults, when they are incapable of making decisions independently.*

# Types of Representation Agreements

## Section 7

### Standard Powers

- Minor/major health care
- Personal Care
- Routine financial management
- Obtaining legal services and instructing counsel

## Section 9

### Enhanced Powers

- Minor/major health care+
- Personal Care +
- End-of-life decisions
- [NO financial or legal matters]

# Three Pages of Section 9

- Intro
- ID of Adult
- Date of Making
- Revocation
- Naming Rep & Alternate

- Evidence of Authority of Alternate
- Authority of Rep
- Instructions/Wishes [optional]
- Effective Date

- Signature of Adult
- Signature of Witness(es) (only one if lawyer or notary)
- Signature of Rep
- Signature of Alterate

BRITISH COLUMBIA

**REPRESENTATION AGREEMENT (SECTION 9)**

Made under Section 9 of the Representation Agreement Act.

This use of this form is voluntary. Be advised that this form may not be appropriate for use by all persons as it provides only one option of how a Representation Agreement may be made. In addition, it does not constitute legal advice. For further information, please consult the Representation Agreement Act and Representation Agreement Regulation or obtain legal advice.

This form reflects the law at the date of publication. Laws can change over time. Before using this form, you should review the relevant legislation to ensure that there have not been any changes to the legislation or section numbers.

The notes referenced in this Representation Agreement are found at the end of this Agreement and are provided for information only.

**1. THIS REPRESENTATION AGREEMENT IS MADE BY ME, THE ADULT:**

Full Legal Name of the Adult: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Full Address of the Adult: \_\_\_\_\_

**2. REVOCATION OF PREVIOUS INSTRUMENTS**

(See Note 1 – actions that must be taken to revoke a previous Representation Agreement.)  
(See Note 2 – effect of revocation on previous Representation Agreements.)

I revoke all of the following made by me:

- all previous Representation Agreements granting authority under section 7 of the Representation Agreement Act;
- all previous Representation Agreements granting authority under section 9 of the Representation Agreement Act.

**3. REPRESENTATIVE**

(See Note 3 – who may be named as Representative.)

I name the following person to be my Representative:

Full Legal Name of Representative: \_\_\_\_\_

Full Address of Representative: \_\_\_\_\_

**4. ALTERNATE REPRESENTATIVE (OPTIONAL)**

(See Note 3 – who may be named as Representative.)  
(Strike out this provision if you do not want to appoint an Alternate Representative.)

If my Representative:

- dies,
- resigns in accordance with the Representation Agreement Act,
- is my spouse, as defined in the Representation Agreement Act, at the time that I make this Representation Agreement, and my marriage or marriage-like relationship subsequently terminates as set out in the Representation Agreement Act, or
- becomes incapable,

then I name the following person to be my Alternate Representative:

Full Legal Name of Alternate Representative: \_\_\_\_\_

Full Address of Alternate Representative: \_\_\_\_\_

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BRITISH COLUMBIA

**5. EVIDENCE OF AUTHORITY OF ALTERNATE REPRESENTATIVE**

(See Note 4 – statutory declaration for evidence of authority of Alternate Representative.)  
(Strike out this provision if you are not appointing an Alternate Representative.)

A statutory declaration made by me, my Representative, or my Alternate Representative (if one is named), declaring that one of the circumstances referenced in section 4 of this Representation Agreement has occurred, and specifying that circumstance, is sufficient evidence of the authority of my Alternate Representative to act in place of my Representative.

**6. AUTHORITY OF REPRESENTATIVE**

(See Note 5 – what a Representative may and may not do.)

Pursuant to section 9 (1) (a) of the Representation Agreement Act, I authorize my Representative to do anything that the Representative considers necessary in relation to my personal care and health care.

**7. INSTRUCTIONS OR WISHES (OPTIONAL)**

(See Note 6 – consultation with a health care provider.)

The following are my instructions or wishes with respect to decisions that will be made within the areas of authority given to my Representative under this Representation Agreement:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. EFFECTIVE DATE**

(See Note 8 – when a Representative may exercise authority by under this Representation Agreement.)

This Representation Agreement becomes effective on the date it is executed.

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BRITISH COLUMBIA

**9. SIGNATURES**

**ADULT AND WITNESS SIGNATURES**

**ADULT'S SIGNATURE**

- The Adult must sign and date in the presence of both Witnesses.

Signature of Adult: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Print Name: \_\_\_\_\_

**WITNESSES TO ADULT'S SIGNATURE**

(See Note 7 – information for witnesses.)

**WITNESS NO. 1**

- Witness No. 1 must sign in the presence of the Adult and Witness No. 2.

Signature of Witness No. 1: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

If Witness No. 1 is a lawyer or member of the Society of Notaries Public of British Columbia, check (Witnesses' Dates):

lawyer

member of the Society of Notaries Public of British Columbia

**WITNESS NO. 2**

- Not required if Witness No. 1 is a lawyer or member in good standing of the Society of Notaries Public of British Columbia.
- Witness No. 2 must sign in the presence of the Adult and Witness No. 1.

Signature of Witness No. 2: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

**REPRESENTATIVE'S SIGNATURES**

(See Note 8 – when a Representative may exercise authority by under this Representation Agreement.)

**REPRESENTATIVE**

Signature of Representative: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Print Name: \_\_\_\_\_

**ALTERNATE REPRESENTATIVE**

(Strike out if an Alternate Representative is not appointed.)

Signature of Alternate Representative: \_\_\_\_\_ Date Signed (YYYY/MM/DD): \_\_\_\_\_

Print Name: \_\_\_\_\_

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# Routine Financial Management – a to z - literally

For the purposes of section 7 (1) (b) of the Act, the following activities constitute "routine management of the adult's financial affairs":

- (a) paying the adult's bills;
- (b) receiving the adult's pension, income and other money;
- (c) depositing the adult's pension, income and other money in the adult's accounts;
- (d) opening accounts in the adult's name at financial institutions;
- (e) withdrawing money from, transferring money between or closing the adult's accounts;
- (f) receiving and confirming statements of account, passbooks or notices from a financial institution for the purpose of reconciling the adult's accounts;
- (g) signing, endorsing, stopping payment on, negotiating, cashing or otherwise dealing with cheques, bank drafts and other negotiable instruments on the adult's behalf;
- (h) renewing or refinancing, on the adult's behalf, with the same or another lender, a loan, including a mortgage, if
  - (i) the principal does not exceed the amount outstanding on the loan at the time of the renewal or refinancing, and
  - (ii) in case of a mortgage, no new registration is made in the land title office respecting the renewal or refinancing;
- (i) making payment on the adult's behalf on a loan, including a mortgage, that
  - (i) exists at the time the Representative Agreement comes into effect, or
  - (ii) is a renewal or refinancing under paragraph (h) of a loan referred to in that paragraph;
- (j) taking steps under the Land Tax Deferral Act for deferral of property taxes on the adult's home;
- (k) taking steps to obtain benefits or entitlements for the adult, including financial benefits or entitlements;
- (l) purchasing, renewing or canceling household, motor vehicle or other insurance on the adult's behalf, other than purchasing a new life insurance policy on the adult's life;
- (m) purchasing goods and services for the adult that are consistent with the adult's means and lifestyle;
- (n) obtaining accommodation for the adult other than by the purchase of real property;

- (o) selling any of the adult's personal or household effects, including a motor vehicle;
- (p) establishing an RRSP for the adult;
- (q) making contributions to the adult's RRSP and RPP;
- (r) converting the adult's RRSP to a RRIF or annuity and creating a beneficiary designation in respect of the RRIF or annuity that is consistent with the beneficiary designation made by the adult in respect of that RRSP;
- (s) making, in the manner provided in the Trustee Act, any investment that a trustee is authorized to make under that Act;
- (t) disposing of the adult's investments;
- (u) exercising any voting rights, share options or other rights or options relating to shares held by the adult;
- (v) making donations on the adult's behalf to registered charities, but only if
  - (i) this is consistent with the adult's financial means at the time of the donation and with the adult's past practices, and
  - (ii) the total amount donated in any year does not exceed 3% of the adult's taxable income for that year;
- (w) in relation to income tax,
  - (i) completing and submitting the adult's returns,
  - (ii) dealing, on the adult's behalf, with assessments, reassessments, additional assessments and all related matters, and
  - (iii) subject to the Income Tax Act and the Income Tax Act (Canada), signing, on the adult's behalf, all documents, including consents, concerning anything referred to in subparagraphs (i) and (ii);
- (x) safekeeping the adult's documents and property;
- (y) leasing a safety deposit box for the adult, entering the adult's safety deposit box, removing its contents and surrendering the box;
- (z) redirecting the adult's mail;

And doing anything that is

- (i) consequential or incidental to performing an activity described in paragraphs (a) to (z), and
- (ii) necessary or advisable to protect the interests and enforce the rights of the adult in relation to any matter arising out of the performance of that activity.

# NOT Routine Management

"Routine management of the adult's financial affairs" does not include any of the following:

- (a) using or renewing the adult's **credit card** or **line of credit** or obtaining a credit card or line of credit for the adult;
- (b) subject to subsection (1) (h), instituting on the adult's behalf a **new loan**, including a **mortgage**;
- (c) **purchasing or disposing of real property** on the adult's behalf;
- (d) on the adult's behalf, **guaranteeing a loan**, **posting security** or **indemnifying** a third party;
- (e) **lending the adult's personal property** or, subject to subsection (1) (v), **disposing of it by gift**;
- (f) on the adult's behalf, **revoking or amending a beneficiary designation** or, subject to subsection (1) (r), creating a new beneficiary designation;
- (g) acting, on the adult's behalf, as **director or officer of a company**.

# Monitors

- A monitor is a person responsible for making reasonable efforts to determine whether a Rep is complying with their duties under the *Act*.
- A monitor is required if the Rep is authorized to make, or help make, decisions concerning routine management of financial affairs
- But not if that Rep is the adult's spouse, the Public Guardian and Trustee, a trust company or a credit union, and not if 2 or more reps with this power.
- Monitor must complete a Certificate (Form 2)

NOTE - monitors could be used in other situations (EPOA, RA9, Executors...)

# Capacity Tests - s7 & s9 RAs

## Section 7 RA

An adult can make a s. 7 RA, even though the adult is incapable of: (a) making a contract; (b) managing his or her health care, personal care or legal matters; or, (c) the routine management of his or her financial affairs.

In deciding capability, all relevant factors must be considered, for example, whether the adult:

- communicates a desire to have a representative make, help make, or stop making decisions;
- demonstrates choices and preferences and can express feelings of approval or disapproval of others;
- is aware that making the representation agreement or changing or revoking any of the provisions means that the representative may make, or stop making, decisions or choices that affect the adult;
- has a relationship with the representative that is characterized by trust.

## Section 9 RA

The adult must be capable of understanding the nature and consequences of the proposed agreement.

A s. 9 agreement either authorizes Rep to

- to do anything that the representative considers necessary in relation to the personal care or health care of the adult,

OR

- one or more of the things in relation to personal care or health care set out in ss. 9 (1) (b) of the *Representation Act*. (next slide)



Drafting documents is only a small part of the work - you want a document that will bear scrutiny and 'stand up in court'

# PROCEDURES

# Suggested Procedure

## Client Questionnaire

- Collect all necessary information
- Choosing agents & alternates
- Decide or think about any special directions



## Client Interview

- 4 Cs - "Why Am I Left in the Waiting Room?"
- Instructions
- Conflict of Interest?
- Undue Influence? - BCLI handbook
- Capacity Issue? - ABA handbook



## Client Choices

- Appropriate Agent(s), Monitor, Alternate(s)?
- Payment for Agent?
- FOR s. 9 RAs:
  - ⓐ Timing
  - ⓐ Response Shift
  - ⓐ Future Changes in procedures



## Signing & Handouts

- 2 witnesses present & signing with adult - or lawyer/notary
- Agent to sign EPOA or RA before effective
- Execution memo
- Handouts - Being an (attorney/rep/executor)

## Client Questionnaire

- Given out before interview
- Does not replace interview, but helps gather relevant information
- Introduces client to the various issues/options to ponder and informally consult about before meeting

**access|probono**  
QUALITY LEGAL SERVICES FOR ALL

**WILLIS CLINIC CLIENT INTAKE FORM**

Date Intake Form Completed: \_\_\_\_/\_\_\_\_/\_\_\_\_  
mm dd yy

Notes (e.g. dates voicemails left): \_\_\_\_\_  
\_\_\_\_\_

**BASIC CLIENT INFORMATION**

Client Full Name (and any aliases): \_\_\_\_\_

Home Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Home Phone: (\_\_\_\_) \_\_\_\_\_ Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_  
mm dd yy

Referred by: \_\_\_\_\_

\*\*\*Is it ok to leave a voicemail on your answering machine? Y  N

**CLIENT INCOME**

What is the source of your monthly household income? \_\_\_\_\_

How Many People Live in your Household? \_\_\_\_\_

Do you have any debts? Y  N  If Y, explain: \_\_\_\_\_

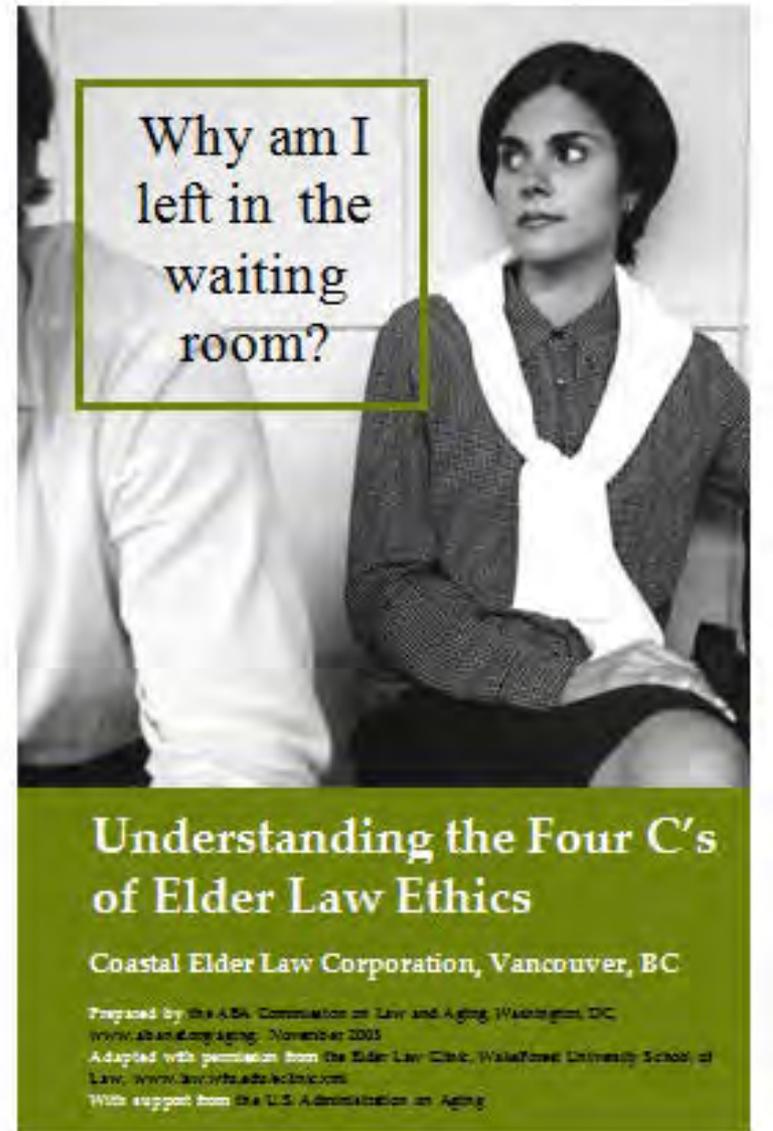
**CLIENT ASSETS**

What is the value of your estate and what assets do you own?

- Family residence or other real property? Y  N  If Y, list address & value  
\_\_\_\_\_

## The “Basic Rule”

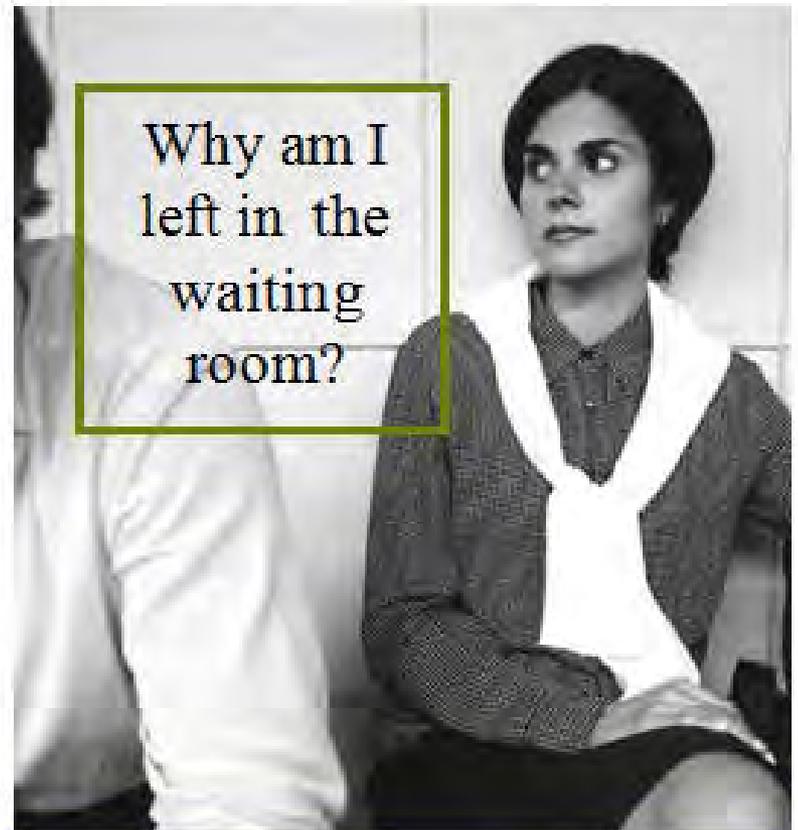
- Always interview the client alone (unless taking instructions for mirror wills for spouses)
- To explain why to well-meaning family and/or friends, use the pamphlet - “Why Am I Left in Waiting Room? - Understanding the Four C’s of Elder Law Ethics”)



## The Four C's of Elder Law Ethics

This pamphlet, prepared by an Elder Law Clinic for use by law students, explains to friends and relatives why the lawyer needs to meet with an elderly client alone - if at all possible - to properly address the four C's:

1. **Client ID** (who is the client - what are instructions)
2. **Conflicts of Interest** (only one client if possible)
3. **Confidentiality** (and protection of privilege)
4. **Competency** (assessing capacity)



### Understanding the Four C's of Elder Law Ethics

Coastal Elder Law Corporation, Vancouver, BC

Prepared by the ABA Commission on Law and Aging, Washington, DC  
www.abanet.org/aging, November 2001  
Adapted with permission from the Elder Law Clinic, WakeForest University School of Law, www.law.wakeforest.edu/clinic  
With support from the U.S. Administration on Aging



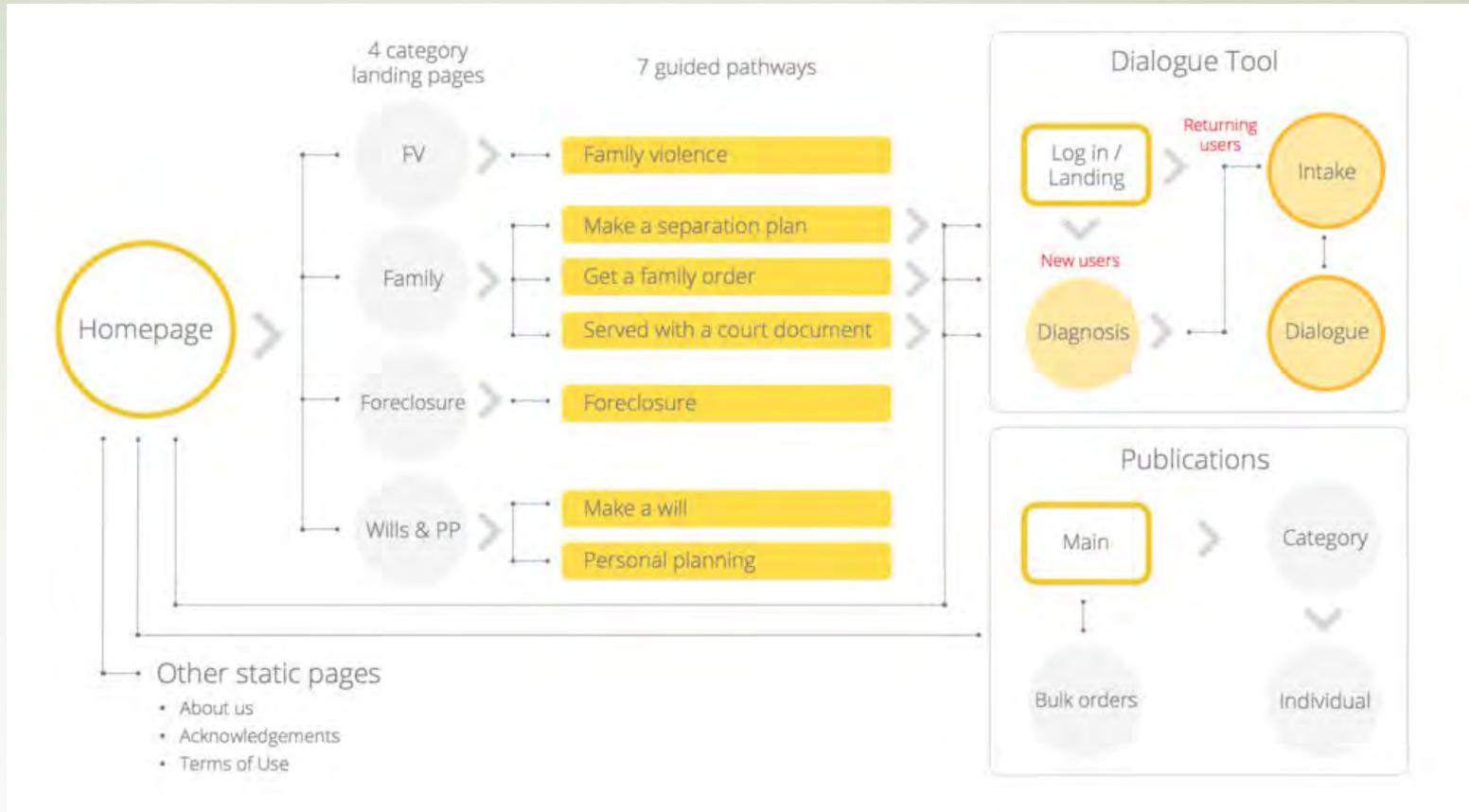
A possible online tool to assist in document production.

**MYLAW BC**

The screenshot shows the MyLawBC website interface. At the top left, there is a logo for 'MY LAW - BC -' with the tagline 'My problem. My solution.' below it. In the top right corner, there is a purple button labeled 'Dialogue Tool'. The main heading is 'Wills & personal planning' with the subtitle 'Plan for the future.' Below this, a purple banner contains the text 'Click a pathway to get started. Get solutions for the future in 10 - 20 minutes.' Underneath the banner, there is a section titled 'Get help with making a will and planning for the future' with a sub-headline 'If you want legal documents to say what you want to happen after you die or for when you can't act independently, MyLawBC can help you.' To the right of this text is a circular image showing a person's hands writing on a document. Further right, there is a button labeled 'Make a will' with the text 'Create a simple will to fit your needs.'

## MyLawBC

LSS's online tool for making a will (also possibly an enduring power of attorney and/or representation agreement). 'Guided pathways' ask relevant questions and work toward an 'endpoint.'



## Site Structure - how users navigate site

7 'guided pathways' include 2 planning pathways - one for making a will, and the other for "personal planning" - (EPOAs and Ras)

# Endpoints

- The various pathways include capacity questions, and each lead to a unique 'endpoint' (a customized Web page that you can download or print)
- For wills there are 21 simple will templates (fillable in Microsoft Word).
- For EPOAs and Ras, a pdf 'plan for the future' endpoint document is produced with first practical steps, useful resources to get more information and legal help, sharing the plan, and other suggested documents.
- There is also a publications section where you can download PLEI materials or order print copies.

Group approach to document production.

# PLANNING DOCUMENT NIGHTS

# Scenario - Planning Docs Night

- Held at a local library, computer lab in school.
- Starts with a presentation on planning documents and MyLaw BC [similar to this presentation]
- Could be done live, show MyLawBC videos, or remote webinar presentation



# Scenario - Planning Docs Night

- Audience then logs onto MyLaw BC to work on their planning documents
- Navigators can help with any issues
- Legal service provider could be present, or available remotely for questions [ users could share screen and help would appear in pop-up window]



# Scenario – Planning Docs Night

- Finally, finished documents can be reviewed by legal service provider before printing out.
- If there are any issues ID'd (capacity, undue influence, conflict of interest) legal service provider could go through 'tests' with adult
- Adult may be referred to legal service provider





Some of the 'pluses and minuses' of the various approaches

# **SPECIFIC PROPOSALS AND HURDLES**



Coming to your town...

# TRAVELLING WILLS CLINIC

# Travelling Wills Bus



- One or two legal service providers would travel to various communities to assist with document production
- This could be on the 'bus' itself or in local schools, community centres or libraries
- At 'document nights' or one-on-one, a short presentation (like this one) on advance planning & MyLaw BC, then people would work on their documents with assistance.

# Travelling Wills Bus

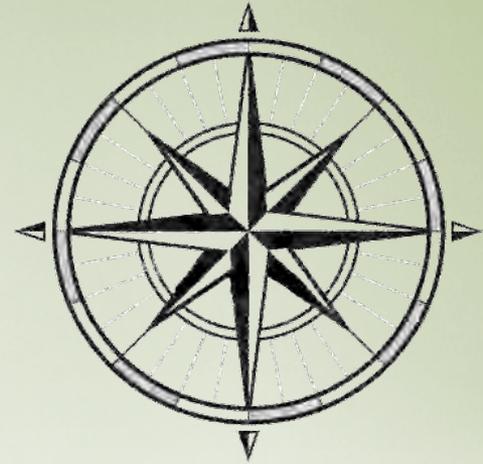


## PROs

- ✓ Able to reach remote areas of the province
- ✓ Ensures knowledgeable service providers
- ✓ Ensures consistent approach

## CONs

- ✗ Local service providers (and community) may feel disrespected
- ✗ No real ongoing follow-up
- ✗ Considerable logistics arranging in different communities



Providing help with MyLawBC, legal forms, and PLE materials.

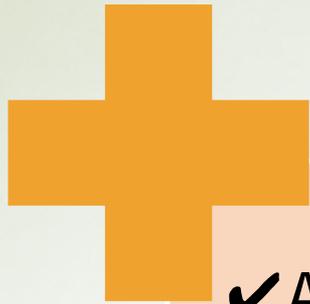
# NAVIGATOR NETWORK

# Network of Navigators

A network of trained and experienced (pro bono) legal service providers across the province:

- able to aid adults in navigating the system
- to efficiently utilize a curated set of Public Legal Education (PLE) materials and,
- efficiently prepare personal planning documents for low income adults in their areas using materials prepared through an online tool (MyLaw BC)
- In law office or at library/school room.

# Network of Navigators



## PROs

- ✓ Able to cover most areas of the province
- ✓ Ensures local service providers & consistent approach & knowledge
- ✓ Much less expense
- ✓ for those who don't qualify, paying client?

## CONs

- ✗ Considerable logistics involved in:
  - ✗ arranging remotely in different communities
  - ✗ ensuring training and vetting of navigators



Places to go for forms, reference and PLE materials.

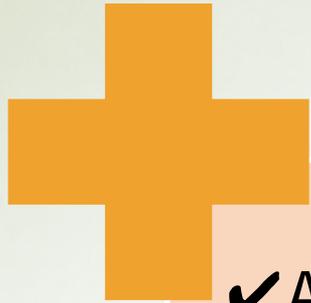
# FIRST NATIONS NAVIGATORS

# First Nations Navigators

There are many complexities with regard to wills drafted for a first nations person living on a reserve:

- Self-governing first nation?
- If land owned without a Certificate of Possession or Certificate of Occupation
- wanting to leave reserve land to a non-band member
- Gifts of personal property which include cultural artifacts (such as art, carvings, or masks)
- Having said that, the will itself can be very simple.
- EPOAs and Ras also similar to others, difference is if EPOA fails then INAC/AANDC takes over (rather than PGT)

# First Nations Navigators



## PROs

- ✓ Able to cover more areas of the province
- ✓ Ensures knowledgeable local service providers & consistent approach
- ✓ Much less expense

## CONs

- ✗ Considerable logistics involved in:
  - ✗ arranging remotely in different communities
  - ✗ ensuring training and vetting of navigators



Law Foundation could fund a tariff of set fees for local lawyers or notaries to prepare planning documents for low income adults.

# TARIFF FOR PLANNING DOCUMENTS

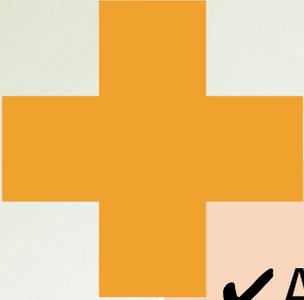
# Tariff for Planning Documents

The Law Foundation would develop a list of set fees (a legal aid tariff) for:

- A simple will
- EPOA
- RA 9 or RA7
- Mutual Wills (for a couple)
- Planning document package (will + EPOA + RA9)

Local lawyers or notaries would agree to provide this service for qualifying low-income adults. May include funding for travel to home/hospital/care facility visits. Also funding for capacity, undue influence assessments?

# Tariff for Planning Documents



## PROs

- ✓ Able to cover most areas of the province
- ✓ Ensures knowledgeable local service providers & consistent approach
- ✓ Less expensive than travelling lawyer



## CONs

- ✗ local lawyers would have exist, and to agree to take part
- ✗ need to ensure training and quality of service
- ✗ in some smaller locales may be conflict of interest, or no time



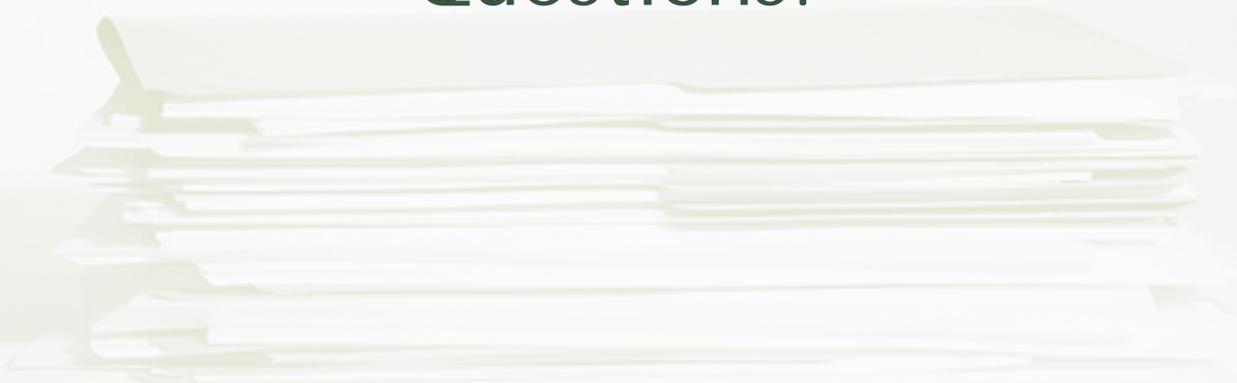
Seeking your input into these proposals

# QUESTIONS FOR DISCUSSION

- Preferred solution?:
  - Travelling Wills Bus?  
OR
  - Network of Navigators?  
OR
  - Planning Document Tariff?  
OR
  - Status quo?
- Is there a need for a solution in your area?
- What would work best in your location?
- Would you be involved as legal advocate?
- Will there be lawyers or notaries willing to work on this?
- Will intended clientele in your area make use of this service?
- Use MyLaw BC? Is computer literacy an issue?
- Anything we may have overlooked or not thought about?

# The End

Questions?



## Limitation Periods for unsecured debt issues

*(This handout was copied, with some additions, from the Limitations chapter of the People's Law School's Consumer and Debt Law wikibook, dated August 2018, and updated by Alison Ward, lawyer, CLAS, October 7, 2019).*

A limitation period, or limitation date, refers to the legal deadline within, or by, which someone must start a lawsuit against someone else.

### **Typical Client problems**

- Client has not paid on a debt for a number of years and wants to know if they are still liable for the debt.
- Client says there is an “old judgment” against them that a creditor is now trying to collect on again, and the client wants to know if the judgment is still valid.
- Client asks how long they have to hide from creditors before the client does not have to pay anymore.

### **Summary of the law**

If someone does not start a lawsuit within the applicable limitation period, then the other party may have a “limitation defence” against their claim. In other words, if someone starts a lawsuit against someone else after a limitation period or date has passed, the other person can ask a court to dismiss (throw out) the lawsuit for this reason.

There are two main principles of limitations law that advocates should be aware of: limitations for debts and limitation for judgments. This area of the law is complex. The applicability of limitations defences can turn on fine distinctions of law. The summary provided below is only a brief outline of basic principles. A lawyer should be consulted for an opinion in specific case.

### **Limitations for unsecured debts**

A new *Limitation Act* was enacted in BC in 2013. As of June 1, 2013, a basic two-year limitation period applies to most claims for injury, loss or damage. Section 6 of the Act governs most debt situations. Legal actions for claims, including unsecured debts, cannot be brought later than two years after the date on which the right to bring the action arose. Note that under the former *Limitation Act*, the limitation period for unsecured debts was six years. Figuring out whether the current or former *Limitation Act* applies to a particular case is very important.

The first step in deciding which Act applies is to determine the date on which a claim was discovered, or the right to bring the action arose. In general, a creditor does not have the right to sue a debtor so long as the debtor is keeping up on the payments under the agreement. A creditor's right to bring a legal action arises when the debtor has defaulted on their contractual obligation to pay. Most consumer-related credit arrangements, ranging from mortgages to credit cards, require some form of periodic payment. If the periodic payment is missed, the debtor is usually in default and the creditor can sue.

If the creditor's right to sue a debtor for an unsecured debt first arose on or after June 1, 2013, then the two-year limitation period under the current *Limitation Act* generally applies. For

example, if someone owes periodic payments on a credit card and their periodic payment was first missed on July 12, 2013, the creditor has the right to bring a legal action on that date. However, if the creditor's right to sue a debtor first arose before June 1, 2013, then the former Limitation Act (and general six-year limitation period) may apply. For example, if someone stopped paying their credit card bill on November 30, 2012, and the creditor was aware of the default at that time, the six-year limitation period under the former Limitation Act would apply. The former Act applies because the creditor discovered the claim before June 1, 2013.

### **When is a limitation date extended or restarted under the Act?**

There are important provisions in both the new *Limitation Act* and the former *Limitation Act* that can extend a limitation date. Sections 24 of the new Limitation Act, and section 5 of the former Limitation Act, provide that the applicable limitation period (two years or six years) starts all over again if there has been an "acknowledgement" of the debt. Both *Limitation Acts* define "acknowledgement" to include:

- (a) making a partial payment; and
- (b) the person – or their agent - acknowledging liability (responsibility) for the debt in a signed, written statement (including an email) made to the creditor.

This means that in many cases, the limitation date will run from the date when a payment was last made, or a written and signed acknowledgement of liability made, rather than the date when the payments under the agreement were first in default, or when the claim was first discovered.

If there is some question as to whether a client might have a limitation defence, advocates should tell the client not to make any payments in the meantime, and not to give any kind of written statement (e.g., in a letter to the creditor) acknowledging the client's liability for the debt.

### **Some important exceptions where the new *Limitation Act* does not apply**

#### **A. Debts to the Provincial Government**

Under the former *Limitation Act*, unsecured debts to the government (e.g. welfare overpayments) were generally governed by a 6 year limitation period.

Under the new *Limitation Act*, most debts to Province of BC will **continue** to be governed by a six year limitation period. This is because, when the new *Limitation Act* was introduced, another provincial statute called the *Financial Administration Act* was amended. A copy of section 86.1 of the *Financial Administration Act* is attached. In essence, it says that when the BC government or "tax payer supported government reporting entity" has a claim in debt, a 6 year limitation period applies. This same 6 year limitation period applies to claims by ICBC for "motor vehicle indebtedness."

#### **B. Canada Student Loans**

The B.C. *Limitation Act* does not apply to Canada Student Loans as the *Canada Student Financial Assistance Act* sets specific limitation periods that apply to federal student loans. Generally that limitation period is 6 years. However, section 16.1(5) of the *Canada Student Financial Assistance Act*, says that even if an acknowledgement of a student loan (whether in writing or by partial payment) is

made **after** the 6 year limitation period has passed, that acknowledgement restarts the 6 year limitation period from the very beginning, and the debt is still owed.

### **Effect of the expiry of a limitation period under the *Limitation Act***

The former *Limitation Act* (section 9) provides that once a limitation date has passed, a person's "cause of action" (legal right) against the other party is "extinguished." In the case of unsecured debts, after a limitation date has passed under the former *Limitation Act*, it follows that the existence of an indebtedness is also extinguished, along with the creditor's legal rights. In short, after a limitation date for suing in respect of an unsecured debt has passed under the former *Limitation Act*, a person can say that they are simply no longer indebted to a creditor. Because the indebtedness no longer exists, the creditor is legally barred both from subsequently suing the person in court, and from exercising any legal remedy outside the court system to collect that debt.

The new *Limitation Act* treats this issue somewhat differently. Section 27 of the new *Limitation Act* says:

#### *Non-judicial remedies*

**27 (1) In this section, "non-judicial remedy" means a remedy that a person is entitled, by law or by contract, to exercise in respect of a claim without court proceedings.**

**(2) If a claimant is prevented from commencing a court proceeding in relation to a claim as a result of the expiry of a limitation period under this Act, the claimant is not entitled to exercise against the person against whom the claim is or may be made, or against any other person, any non-judicial remedy that the claimant would, but for this section, be entitled to exercise in relation to the claim.**

So, once a limitation period under the new *Limitation Act* has expired, a legal right is not legally *extinguished* in the same way as it was under the former *Limitation Act*. Theoretically then, the debt may still exist and a debtor may remain indebted to a creditor.

However, under the new *Limitation Act*, it is clear that if a creditor fails to sue a debtor in court by a limitation date (i.e. fails to exercise a *judicial* remedy by the limitation date), the same creditor is legally barred not only from subsequently starting a court action, but ALSO from exercising any legal remedy outside the court system (i.e. non-judicially) to collect that debt.

Let's take the example of someone who owes a debt to ICBC in respect of a car accident in which the person was found to be at fault but does not pay ICBC voluntarily. The accident happened after June 1, 2013 so the new *Limitation Act* applies to the situation. A six year limitation period applies to "vehicle indebtedness" under the new *Limitation Act*, by virtue of section 86.1 of the *Financial Administration Act*. If ICBC fails to sue the person before the passage of the six year limitation date, it could be argued that section 27 of the new *Limitation Act* then also legally prohibits ICBC from withholding that person's driver's license or from refusing them insurance on account of "vehicle indebtedness," which are powers that ICBC would otherwise have under section 26 of the *Motor Vehicle Act*. In other words, section 27 of the new *Limitation Act* appears to provide that those non-judicial (outside of court) remedies for

collecting the debt in question, would no longer be available to ICBC if the limitation date for suing in respect of the same debt has passed.

In this sense, the *effect* of the former and new *Limitation Acts* is the same, however – as you have just seen - the arguments that lead to this same outcome are framed somewhat differently under the new and former Acts.

### **Limitations for judgments**

Under section 7 [3] of the *Limitation Act* (and section 3(3)(f) of the former *Limitation Act*), creditors have up to 10 years from the date of a judgment to enforce the judgment. The creditor can take enforcement steps at any time during those 10 years. Since the law considers a judgment itself to be a cause of action, a creditor is also allowed to sue the debtor again, at the end of (but within) the 10 years, to get another judgment. That second judgment is also good for 10 years.

### **Information gathering**

Advocates should obtain all related documents from the client and should carefully verify all relevant dates, including when the contract was made, when there was a default or defaults, and, most important, when payments were last made.

### **Solving the problem**

Basically, limitations are defences for debtors. If a limitation defence is applicable, it must be brought to the attention of the court in any legal action. If a limitation defence appears to be applicable, advocates should consult a lawyer, and clients should be advised to have no communication at all with creditors until legal advice is obtained.

# Student loans

\*Prepared by Alison Ward, lawyer, Community Legal Assistance Society, and last updated October 4, 2019

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## 1. Effect of bankruptcy on student loans

Bankruptcy normally erases most (but not all) debts. Section 178 of the federal *Bankruptcy and Insolvency Act* (“BIA”) specifies which debts are not erased by a discharge from bankruptcy.

Student loans are treated differently than most debts in bankruptcy. Sections 178(1)(g) and 178(1.1) of the *Bankruptcy and Insolvency Act* provide that student loans will not be discharged from (i.e. forgiven through) bankruptcy if the person either:

- a) declared bankruptcy while they were still a full-time or part-time student; OR
- b) declared bankruptcy within seven years of the date they ceased to be a full-time or part-time student.

This means that if someone files for bankruptcy *within* seven years of leaving school, their student loan debt can remain owing even after the debtor has been discharged from all the other debts they declared in her Assignment in Bankruptcy. However, if a person files for bankruptcy more than seven years after they ceased to be a student, their student loans will usually be automatically discharged during the bankruptcy process, and the loans will no longer be owed.

There is a kind of exception to this seven year rule: it is found in section 178(1.1) of the *BIA*, as follows:

**178 (1.1)** *At any time after five years after the day on which a bankrupt who has a debt referred to in paragraph (1)(g) or (g.1) ceases to be a full- or part-time student or an eligible apprentice, as the case may be, under the applicable Act or enactment, the court may, on application, order that subsection (1) does not apply to the debt if the court is satisfied that*

*(a) the bankrupt has acted in good faith in connection with the bankrupt's liabilities under the debt; **and***

*(b) the bankrupt has and will continue to experience financial difficulty to such an extent that the bankrupt will be unable to pay the debt.*

Under section 178(1.1), a person whose student loans were not discharged from bankruptcy because of the rules in section 178(g), can apply to the Supreme Court in Bankruptcy to have their student loans discharged from bankruptcy if:

- a) the person ceased to be a full-time or part-time student at least five years ago;
- b) the person satisfies the judge that they have acted in good faith in relation to their student loan debt (e.g. they did not refuse to pay the loan when they could have afforded to do so, etc.); and

- c) the person satisfies the judge that they have, and will continue to, experience financial difficulty to such an extent that the person will be unable to pay the student loan debt.

***When does someone “cease to be” a full or part-time student?***

This is a key question, as student loans are discharged like most other debts unless the person declared bankruptcy *within 7 years of the date they ceased to be a full-time or part-time student*.

There have been conflicting court cases on this issue across Canada. Some cases held that the particular legislation (including loan agreement) under which the student loan in question is advanced determines when an individual “cease to be a student” for the purposes of that loan. Those cases held that there could be multiple dates under which a person ceases to be a student for the purposes of BIA section 178 (not only one date in their lifetime).

In BC however, this question was decided by the BC Supreme Court in 2015 in a case called *Re Mallory, 2015 BCSC 5*. In that case, the BC Supreme Court held that a person “ceases to be a student” under the BIA at the end of their last study period, and that someone can only have one date when they ceased to be a student.

***Summary***

Despite these rules, a debtor with student loan debt can still declare bankruptcy at any time, and can include their student loans in their Assignment in Bankruptcy.

Once an Assignment in Bankruptcy is filed, the debtor is protected from further court or collection action by the student loan provider (see BIA, section 69.3), unless the student loan provider gets special permission from court to sue the debtor in relation to their student loans.

Where the debtor has been out of school for less than 7 years, the debtor should be made aware that the student loans will not be discharged along with other debts, but *may* be discharged (upon application to court) once the student has ceased to be a student for at least 5 years, under the financial hardship exception in section 178(1.1) of the *BIA*.

## **2. Limitation periods for student loans**

### ***a) Canada Student Loans***

The limitation period that applies to federal student loans is found in sections 16.1 and 16.2 of the *Canada Student Financial Assistance Act*.

The federal government cannot sue on student loans if 6 years have passed since the date when the right to sue arose, unless the debtor has acknowledged the debt (either before or after the end of the 6 year limitation period).

A person can acknowledge a federal student loan debt by:

- a) Making a signed written acknowledgment of the money owing; or a signed written promise to pay;

- b) Making a partial payment of the money owing; or
- c) Acknowledging the money owing in the course of bankruptcy proceedings or other proceedings dealing with the payment of debts.

If a person acknowledges a federal student loan debt as outlined above, the 6-year limitation clock is normally re-started on the date of the last acknowledgment. This is true even if the acknowledgment comes **after** the original 6-year limitation period has expired, which is very unusual as most limitation periods cannot be re-started after the initial limitation period has expired.

**b) BC student loans:**

Limitation periods for BC student loans became more complicated with the introduction of the new provincial *Limitation Act*, S.B.C. 2012, c. 13 on **June 1, 2013**. Some BC student loans will still be governed by the former *Limitation Act* R.S.B.C. 1996, c. 266, while others may be covered by the new *Limitation Act*.

**i) Former Limitation Act:**

BC student loans where the right to sue arose before June 1, 2013, will still be governed by the former *Limitation Act* (e.g. where, for example, payments were first in default before June 1, 2013).

For these loans, the BC government cannot sue on BC student loans after **6 years** from the date when the right to sue on the debt arose (subject to acknowledgment of the debt within the 6 years). See sections 3(5), 5 and 9 of the former BC *Limitation Act*

Under the former *Limitation Act*, a person can acknowledge a BC student loan debt by:

- a) Making a signed, written acknowledgment of the money owing;
- b) Making a partial payment of the money owing; or
- c) Acknowledging the money owing in the course of bankruptcy proceedings

Unlike the case with federal student loans, an acknowledgment that is made after the 6 year limitation period expires on a BC loan does not revive the government's right to sue under the former *Limitation Act*.

**ii) New Limitation Act**

BC student loans where the right to sue arose on or after June 1, 2013 are governed by the new *Limitation Act* (this happens where payments are *first* in default on or after June 1, 2013).

For these loans, the BC government cannot sue on BC student loans after **6 years** from the day on which the claim is discovered (subject to acknowledgment of the debt within the 6 years). See sections 24 and 38 of the BC *Limitation Act* and section 86.1 of the BC *Financial Administration Act*

A person can acknowledge a BC student loan debt by:

- a) Making a written, signed (by hand or electronic signature) acknowledgment of the money owing. A statement from a person's agent can also have the effect of acknowledging the debt.
- b) Making a partial payment of the money owing; or
- c) Acknowledging the money owing in the course of bankruptcy proceedings.

Unlike the case with federal student loans, an acknowledgment that is made after the 6 year limitation period expires on a BC loan does not revive the government's right to sue under the new *Limitation Act*.

### ***For student loans from other provinces***

These are governed by the local provincial legislation. Ask a lawyer if you need to know about limitations on a provincial student loan from a province other than BC.

### **Limitation periods and government's right of set-off**

The government can set-off income tax refunds and other federal money against both provincial and federal student loan debts. See sections 16.1(2) and 16.2(4) of the *Canada Student Financial Assistance Act* and s. 38 of the *BC Financial Administration Act*.

For federal loans, the government keeps this right of set-off **forever**, even after the limitation date has expired.

For BC student loans governed by both the former and the new *Limitation Act*, the B.C. government only keeps its right of set-off until the six year limitation period expires (see section 27 of the new *Limitation Act*).

## **3. Student loan forgiveness and Repayment Assistance Program**

In July 2012, all "direct lend" BC student loans (meaning government financed student loans that were cashed by a student on or after August 1, 2000) were automatically moved to the National Student Loans Service Centre (NSLSC) in Mississauga, Ontario. Previously, the NSLSC administered only Canada student loans, and BC administered BC student loans. Now, however, both these BC and Canada student loans are managed as a single Canada-B.C. integrated loan by the NSLSC.

If you are dealing with student loans that were cashed before August 1, 2000, different rules apply.

Canada Student Loans are governed by the *Canada Student Financial Assistance Act and Regulation*, which provides specific terms on which loans can be forgiven, reduced or managed.

In BC, there is no specific legislation that applies to student loans issued by BC. Rather, all debt forgiveness and reduction/repayment programs that apply to BC student loans are determined only by *policy* set by the BC government.

The BC government's current policy manual regarding BC student loans is available on the Student Aid BC website at [https://studentaidbc.ca/sites/all/files/school-officials/policy\\_manual.pdf](https://studentaidbc.ca/sites/all/files/school-officials/policy_manual.pdf)

The policy is a 192 page document that details eligibility criteria for BC student loans, outlines repayment terms and loan forgiveness programs, and describes the appeals policy that applies to BC student loans. There is also a general description of those policies on the Student Aid BC website at <https://studentaidbc.ca/repay/understand-loan-repayment>

Based on that policy and the federal student loans legislation, there are programs in place that may let your client apply for forgiveness of their entire loan, get repayment assistance, or otherwise get help with an unmanageable student loan debt. Two of those are detailed below.

### **A. Canada and BC student loans and disability forgiveness**

Both BC and Canada Student Loans can be forgiven based on permanent disability.

#### **August 1, 2019 change to definition of “severe permanent disability”**

The criteria for forgiveness based on permanent disability changed on August 1, 2019 to expand eligibility to those who may be able to work, but whose jobs will never be substantially gainful and/or those who may still be able to participate in post-secondary education.

Before this August 2019 change, in order to qualify for disability forgiveness of a student loan, a person's disability had to prevent them from working at all, or attending post-secondary education at all. This recent change means that some clients who previously applied for and were refused forgiveness based on permanent disability, may now be able to qualify.

#### **Canada student loans criteria for disability forgiveness**

Most Canada student loans can be forgiven for severe permanent disability under sections 11 and 11.1 of the *Canada Student Financial Assistance Act*.

Section 11.1 says:

*11.1 All obligations of a borrower in respect of a loan made under an agreement entered into under section 6.1 terminate if the Minister is satisfied, on the basis of information specified by the Minister and provided by or on behalf of the borrower, that the borrower, by reason of the borrower's **severe permanent disability**, is **unable to repay the loan and will never be able to repay it**.*

“Severe permanent disability” is currently defined in section 2 of the *Canada Student Financial Assistance Regulation*, as follows:

**severe permanent disability** means a functional limitation caused by a physical or mental impairment that *prevents* a borrower from performing the daily activities necessary to participate in substantially gainful employment, as defined in section 68.1 of the Canada Pension Plan Regulations, and is expected to remain with the person for their expected life;

Section 68.1 of the *Canada Pension Plan Regulations* provides a complicated formula for the calculation of what is “substantially gainful.” Essentially, work is considered to be “substantially gainful” if the yearly earnings from the work are more than 12 times the maximum monthly CPP disability pension amount. For the 2019 calendar year, the substantially gainful amount is \$16,347.60.

This test of “severe permanent disability” applies to Canada Student Loans issued from August 1, 1995 on.

***Disability forgiveness for these loans is available regardless of when a person’s disability arose, and whether or not their loan is in good standing.***

### **BC Student Loans criteria for disability forgiveness**

BC’s program for student loan forgiveness based on disability is called the “BC Provision for Students with Severe Disabilities.”

If a student with both Canada and BC student loans is approved by the Canada Student Loans program for forgiveness of their federal loans based on severe permanent disability, that student does not need to apply separately for disability forgiveness of their BC student loans. Instead, they are *automatically* eligible for the BC Provision for Students with Severe Disabilities, and their outstanding BC loan balance will be reduced to zero.

If a student only has BC student loans (and no Canada student loans), they must apply for the BC Provision for Students with Severe Disabilities. The criteria are the same as those for the federal permanent disability benefit program, described above, and the application is made through the National Student Loan Service Centre.

There is a specific application form that must be completed to apply for disability forgiveness of student loans. It is not currently available online, but can be obtained by calling the National Student Loans Service Centre.

BC’s student loan policy provides that if a person has had their BC student loans forgiven through the BC Provision for Students with Severe Disabilities, they are not eligible for any further BC student loans.

### **B. Repayment Assistance Plan (“RAP”) for borrowers with low incomes, including RAP for borrowers with a permanent disability**

The RAP program applies to all integrated BC – Canada student loans. A person can apply for RAP anytime during repayment of student loans. **To be eligible for RAP, they must be up-to-**

**date on loan payments.** That means it's important to apply for RAP as soon as a client has trouble making their loan payments.

**\*\*Note: Upcoming change – new option to rehabilitate loans in default**

*Currently, borrowers who are not up-to-date on their student loan payments are not eligible for the Repayment Assistance Plan.*

*On January 1, 2020, changes to the Canada Student Financial Assistance Regulation will create the option to rehabilitate student loans in default (i.e. overdue by 270 days or more). That can be done by adding interest owing to the principal of the student loan, and making two payments.*

**How RAP works**

RAP is based on two main principles:

- Ability to pay: Eligible borrowers can make a lower, or zero, payment based on their family income and family size (i.e. not based on interest rate or size of the loan owing);
- Repayment period: as long as the person remains eligible for RAP, no one approved for RAP will have a repayment period of more than 15 years (i.e. 180 months), or 10 years (120 months) for those with a permanent disability.

For those approved for RAP, any interest owing that the person's revised payment does not cover, is paid by the federal and provincial government. After 60 months of RAP or 10 years after the person finished school (whichever comes first), the governments pay both the principal and interest that exceeds the person's reduced monthly payments.

Clients have to apply for RAP (and RAP-PD). Approval is given for periods of 6 months, after which reapplication must be made if the person still needs repayment assistance

Most of the rules regarding RAP are found in section 2 (definitions) and sections 19 to 26 of the *Canada Student Financial Assistance Regulation*, available on [canlii.org](http://canlii.org)

Clients can apply for RAP and RAP-PD online if they have an account with the National Student Loans Service Centre Online Services. Or call the National Student Loans Service Centre to be sent an application form.

**Eligibility for RAP (for non-disabled borrowers)**

To qualify for RAP, a person must

- live in Canada (or be on an international internship or be a reservist deployed abroad);
- have loans in repayment (that does not start until 6 months after the person graduated or left school);
- be up-to-date on their loan payments;
- meet the income threshold set for the program.

There is a “repayment assistance estimator” available online at <http://tools.canlearn.ca/cslgs-scpse/cln-cln/rae-ear/rae-ear-1-eng.do> to calculate what kind of payments someone might be eligible to make through RAP. Currently it appears that a single person with a monthly income of less than \$2,083 may be eligible for a zero dollar payment.

### **Eligibility for the Repayment Assistance Plan for Borrowers with a Permanent Disability**

To qualify for RAP-PD, the person must be:

- eligible for the Repayment Assistance Plan; and
- have a “permanent disability” as assessed by the Canada Student Loans Program;

For the purposes of RAP-PD, “permanent disability” is defined in section 2(1) of the *Canada Student Financial Assistance Regulations*:

**permanent disability** means a functional limitation caused by a physical or mental impairment that restricts the ability of a person to perform the daily activities necessary to participate in studies at a post-secondary school level or the labour force and is expected to remain with the person for the person’s expected life

RAP for borrowers with a permanent disability differs from RAP for non-disabled borrowers mainly in that:

- An applicant must submit a RAP for Borrowers with a Permanent Disability Expenses Form with their RAP application (copy of expense form is attached or available at [https://www.canada.ca/content/dam/canada/employment-social-development/migration/documents/assets/portfolio/docs/en/student\\_loans/forms/repayment\\_disability.pdf](https://www.canada.ca/content/dam/canada/employment-social-development/migration/documents/assets/portfolio/docs/en/student_loans/forms/repayment_disability.pdf))
- borrowers with a permanent disability should never have a repayment period longer than **10 years** (instead of 15);
- Monthly payments amounts are based on family income, family size, **and** disability-related expenses (e.g. allowable uninsured medical expenses, special care and other expenses directly related to the disability).

### **\*\*Note: Upcoming change – access to student loans for people on RAP-PD**

- As of August 1, 2020, people receiving Repayment Assistance for Borrowers with Permanent Disabilities may be eligible for further student loans before their existing loans are fully paid off. Currently, people who have used the RAP-PD plan and who left school more than 5 years ago can only get further student loans once their current loans are fully repaid.

**Other recent and upcoming changes related to student loans**

Changes in federal interest rates and charges:

- On November 1, 2019, the interest rates on Canada Student Loans and Canada Apprentice Loans will be reduced. The variable rate will be reduced to prime (from prime plus 2.5 percent) and the fixed rate will be reduced to prime plus 2 percent (from prime plus 5 percent).
- On November 1, 2019, interest will no longer accrue on Canada Student Loans and on Canada Apprentice Loans during the six-month non-repayment period that starts when someone graduates, leaves school, or finishes an apprenticeship.

Change in BC interest rate:

- As of February 19, 2019, the interest rate charged on BC student loans was reduced to zero (i.e. eliminated). Before this, interest was charged at prime;
- Interest that accrued on student loans before February 19, 2019 is still owed;
- This change applies to all current and future borrowers.