

# Family Law Developments in Provincial Court

Provincial Advocates Conference  
November 10, 2020

Ministry of  
Attorney General

Provincial Court  
of British Columbia

## Provincial Court Family Rules

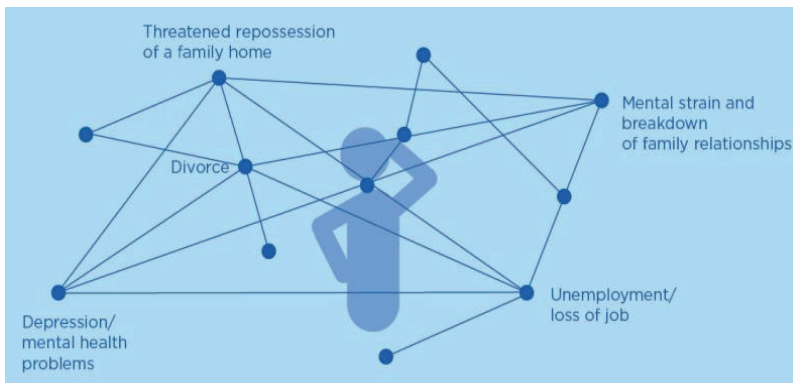
### PCFR Modernization - background

- ▶ MAG and Provincial Court leading major reform to the PCFR
- ▶ Building on research and countless recommendations
  - ▶ E.g. Family Justice Working Group of the National Action Ctee on Access to Justice
- ▶ Working Group
- ▶ Public consultation
- ▶ What is the status of the reform?
  - ▶ Early implementation of Early Resolution and Case Management model in Surrey and Victoria Provincial Court: December 7, 2020
    - ▶ Builds on prototype operating in Victoria since May 2019
  - ▶ Implementation of new PCFR: May 17, 2021
    - ▶ (Part 9, Div. 5 Informal Trial Pilot Project Rules: May 16, 2022)

## Provincial Court Family Rules

# Why early resolution?

- ▶ Benefits for appropriate cases
- ▶ Clustering of issues: 82% of people reporting a family law problem **experience a related** health or social problem
- ▶ ACE - Adverse Childhood Experiences



From [http://www.cfcj-fcjc.org/sites/default/files/pictures/infographics/infographic\\_justiciableproblems.pdf](http://www.cfcj-fcjc.org/sites/default/files/pictures/infographics/infographic_justiciableproblems.pdf)

## Provincial Court Family Rules

# Why early resolution?

- ▶ Objectives of the new rules:

The purpose of the Early Resolution and Case Management Model is to encourage parties to resolve their cases by agreement or to help them obtain a just and timely decision in a way that

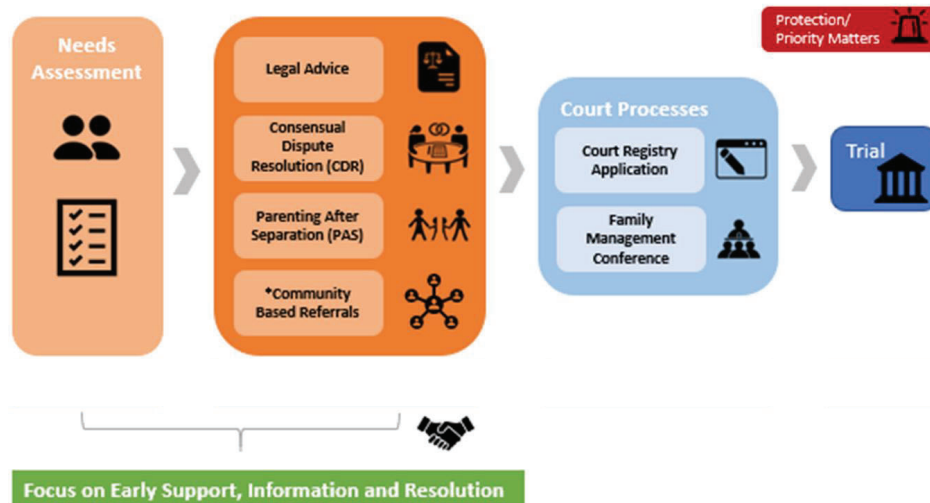
- takes into account the impact that the conduct of a case may have on a child and family,
- minimizes conflict
- promotes cooperation between the parties, and
- provides processes for resolution that are efficient and consistent with the complexity of the cases to be resolved.

Provincial Court (Family) Rules, Appendix B, Part 1, section 4 - Purpose

## Provincial Court Family Rules

# Why early resolution?

## Provincial Court Family Rules – Early Resolution Process



*\*Community based referrals may include supports such as housing, financial, substance abuse, etc.*

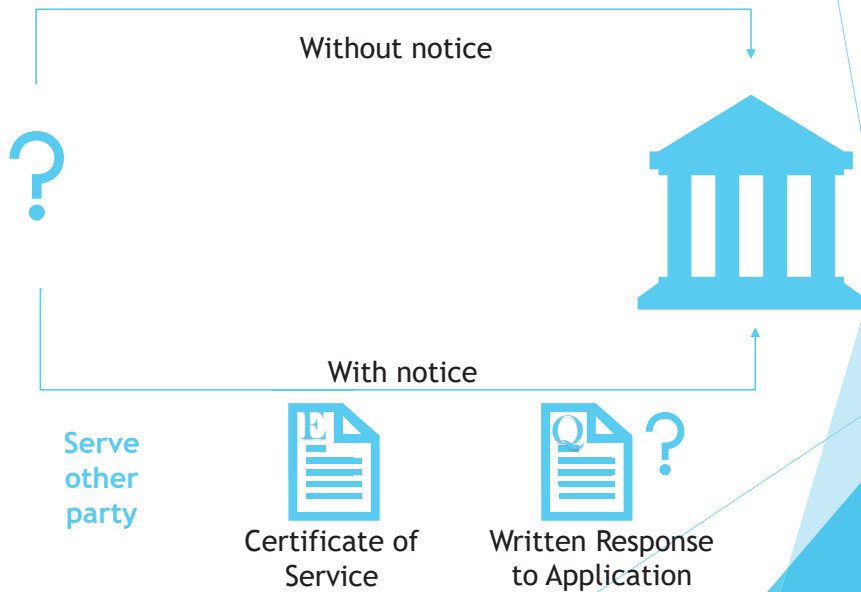
## Provincial Court Family Rules

# What these rules apply to?

- ▶ Family law matters
- ▶ Priority parenting matters
- ▶ Protection Orders under Part 9 of the FLA
- ▶ Case management
- ▶ Relocation
- ▶ Enforcement

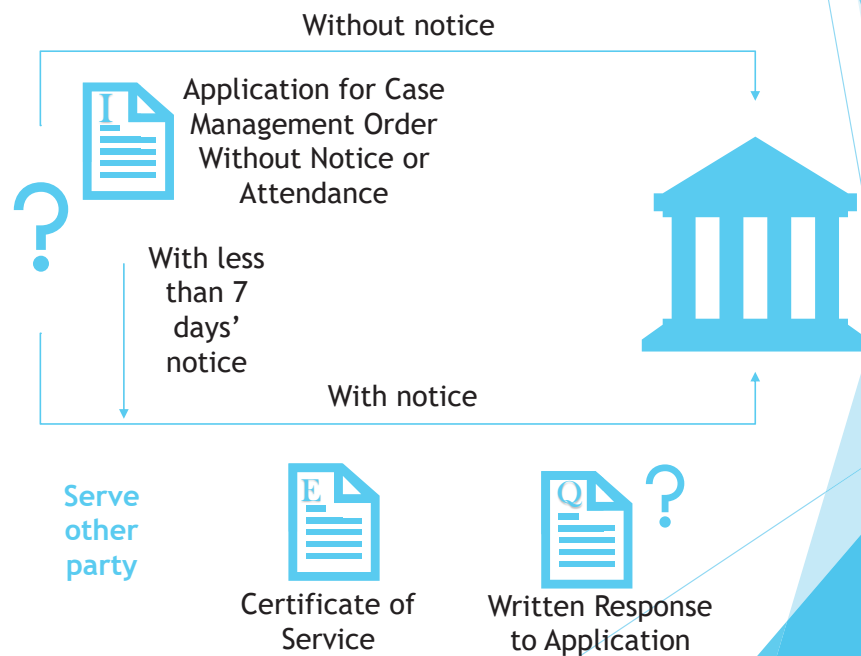
Provincial Court Family Rules

# Application About Protection Orders



Provincial Court Family Rules

# Application About Priority Parenting Matter



## Provincial Court Family Rules Family Law Matters



Notice to Resolve  
a Family Law  
Matter

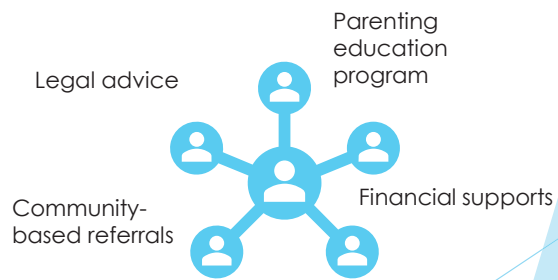
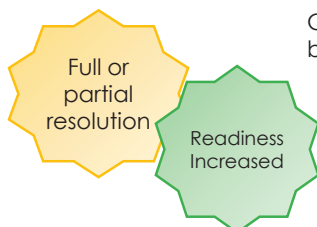


## Provincial Court Family Rules Early Resolution Requirements

**Participate in  
a needs  
assessment**



- ✓ Help to identify legal and non-legal needs
- ✓ Legal information
- ✓ Assessment of any risk of family violence
- ✓ Assessment of appropriateness for CDR
- ✓ Referrals



## Provincial Court Family Rules Early Resolution Requirements



## Provincial Court Family Rules Early Resolution Requirements

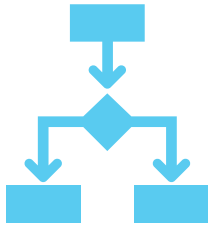
Complete a parenting education course



[www.gov.bc.ca/parentingafterseparation](http://www.gov.bc.ca/parentingafterseparation)

Trailer for Parenting After Separation for Indigenous Families:  
[https://video.jibc.ca/media/IOPAS-Trailer%28rev2%29/0\\_5hvjx0ln](https://video.jibc.ca/media/IOPAS-Trailer%28rev2%29/0_5hvjx0ln)

## Provincial Court Family Rules Early Resolution Requirements



### Determine whether consensual dispute resolution (CDR) is appropriate

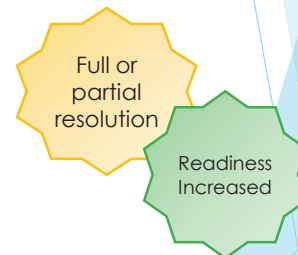
- Engagement of both parties
- Issues to be resolved
- Barriers to participation
- Risk of family violence
- Power Imbalances
- Ability to make accommodations
- Recent CDR

## Provincial Court Family Rules Early Resolution Requirements

Participate in consensual dispute resolution (CDR)



Provide financial information



Provincial Court Family Rules

# Application About a Family Law Matter

Early resolution requirements met



Application About a Family Law Matter

Financial Statement and other supporting documents



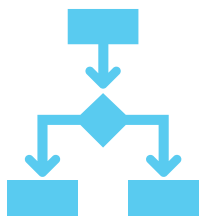
Serve each other party with a copy



Certificate of Service

Provincial Court Family Rules

# Reply to an Application About a Family Law Matter



30 days to reply



Reply to an Application About a Family Law Matter w/counter application

Early resolution requirements met



Financial Statement and other supporting documents

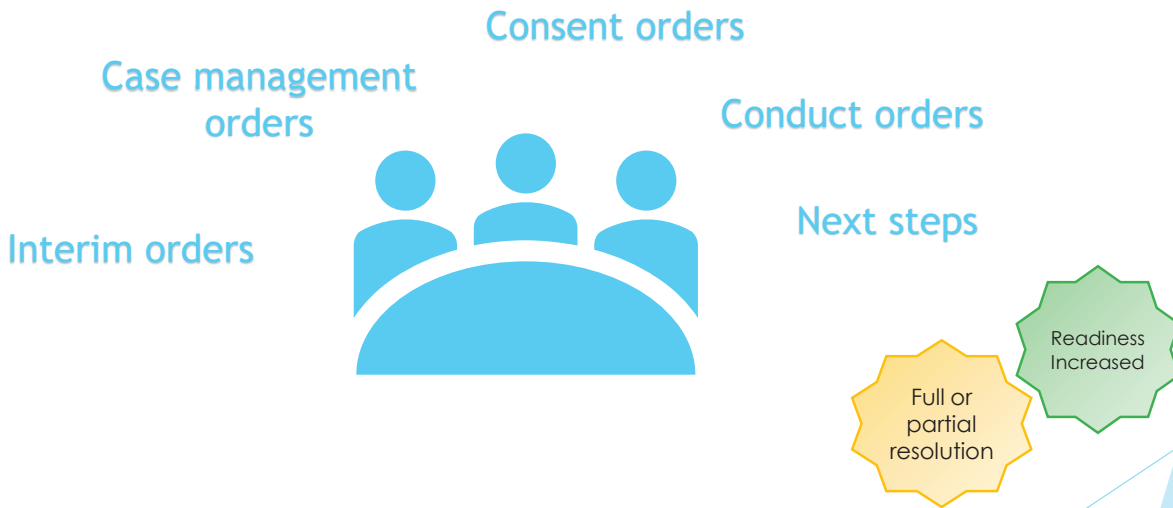


Schedule Family Management Conference



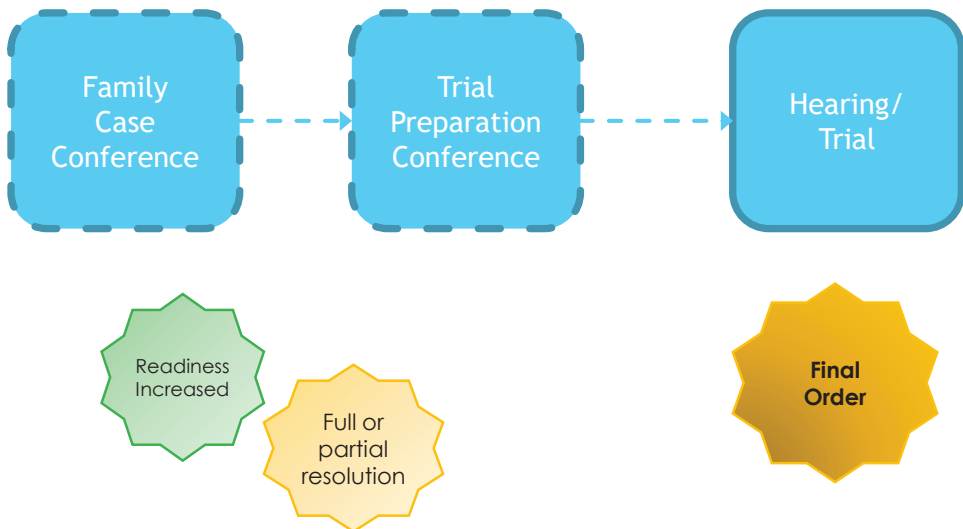
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# Family Management Conference



Provincial Court Family Rules

# Family Management Conference - Next Steps



Provincial Court Family Rules

## Returning to a Family Management Conference

Parties can always go back to the Family Management Conference



Notice of Intention to Proceed



Request for Scheduling

Provincial Court Family Rules

## Early Resolution and Case Management Model

- ▶ Consent orders about family law matters
- ▶ Case management orders
  - ▶ with notice/attendance at court appearance
  - ▶ by consent
  - ▶ without notice/attendance
- ▶ Prohibiting relocation of a child
- ▶ Enforcement



Break



## Provincial Court Family Rules - Early Resolution and Case Management Forms

- ▶ Format - first person, question and answer format
- ▶ Process specific forms
- ▶ Use of schedules for some forms - only need to complete applicable schedule(s)
- ▶ Provide opportunity for a party to tell their story in a meaningful way and to include the information the court and the other party will need to inform decisions around the order to be made

## Provincial Court Family Rules - Early Resolution and Case Management

### Which form to use?

- Form A Notice to Resolve a Family Law Matter
- Form C Application About a Family Law Matter
- Form F Reply to an Application About a Family Law Matter
- Form G Reply to a Counter Application
- Form N Application for a Family Law Matter Consent Order
- Form D Financial Statement
- Form B Notice of Intention to Proceed
- Form R Request for Scheduling
- Form K Application About a Protection Order

## Provincial Court Family Rules - Early Resolution and Case Management

### Which form to use?

- Form H Application for Case Management Order
- Form I Application for Case Management Order Without Notice or Attendance
- Form M Application About Priority Parenting Matter
- Form O Application for Order Prohibiting the Relocation of a Child
- Form P Application About Enforcement
- Form Q Written Response to Application
- Form E Certificate of Service

# Provincial Court Family Rules - Early Resolution and Case Management Forms - Guidebooks

## Preparing an Application for Order Prohibiting the Relocation of a Child Form O

Provincial Court (Family) Rules | Appendix B section 58  
Early Resolution and Case Management Model – SURREY AND VICTORIA ONLY

**This is the form you need to complete if you need an order prohibiting the relocation of a child under s. 69 of the *Family Law Act*.**

Section 69 [orders respecting relocation] of the *Family Law Act* applies if:

- a guardian wants to change the location of their residence or a child's residence that can reasonably be expected to have a significant impact on the child's relationship with another guardian or person having a significant role in the child's life; and
- there is an existing written agreement or court order about parenting arrangements for the child.

An application prohibiting the relocation of a child under s. 69 of the *Family Law Act* must be filed within 30 days after receiving written notice that the guardian plans to relocate the child [s. 68 of the *Family Law Act*].

If there is no written agreement or court order about parenting arrangements for the child, you may apply for an order under s. 46 [changes to child's residence if no agreement or order] of the *Family Law Act* using an [Application About a Priority Parenting Matter Form M](#) or an [Application About a Family Law Matter Form C](#) to determine the parenting arrangements for the child including the location of the child's residence.

# Provincial Court Family Rules - Early Resolution and Case Management Forms - Guidebooks

## Step 1: Complete the Application for Order Prohibiting the Relocation of a Child form

This form is available online at [www.gov.bc.ca/court-forms](http://www.gov.bc.ca/court-forms) or at any [Provincial Court Registry](#).

You can complete the form online and print it for filing. You can also complete it by hand. If you complete it by hand, be sure it's readable. Registry staff and staff at the [Justice Access Centre](#) [Surrey (604-501-8282) and Victoria (250-356-7012)] can help you with the forms but they cannot complete the forms for you. If you need help filling in the forms and do not have a lawyer, ask the court registry [staff](#) or staff at the Justice Access Centre to refer you to someone who can help.

Follow the instructions in the form and include all the information that is asked for.

To prepare the form for filing:

- print or make copies of the completed form: one set for you, one set for the Court, and one set for each other party
- staple each package of documents together
- bring all the copies to the court registry for filing

## Step 2: File the Application for Order Prohibiting the Relocation of a Child form at the Provincial Court Registry

You must go to the [Provincial Court Registry](#):

- nearest to where the child lives most of the time, or
- where the existing Provincial Court case with the same parties is filed

## Step 3: Serve the Application for Order Prohibiting the Relocation of a Child on each other party

Service is the act of giving or leaving documents with the required person. It is important that each other party know that a case is going on, are aware of what step is being taken, and are given a chance to tell their side of the story to the court.

You must serve the other party with at least 7 days' notice of the date and time of the court appearance, unless the court has ordered something else. This means there must be at least 7 days between the date the application document is served on the other party and the date and time of the court appearance.

## Provincial Court Family Rules - Early Resolution and Case Management Forms - Guidebooks

### Identification of the children –

Include each child that the application to prohibit relocation is about.

To fill out the table indicate:

- the child's legal name - usually their name from their birth certificate, unless they have had a legal name change
- the child's date of birth
- who the child is currently living with

The "best interests of the child" is a test that the court uses to make decisions about children. Before making a decision, both parents and courts must consider the child's physical, psychological and emotional safety, security and well-being. Always think about the best interests of your child when you are asking the court for decisions about them.

### Existing written agreements or court orders –

You can make an application prohibiting the relocation of a child under s. 69 of the Family Law Act if there is an existing written agreement or court order about parenting arrangements.

Attach a copy of the written agreement or court order and include the date the written agreement was signed, or order was made.

### Notice of relocation –

If you received written notice of relocation, select the first option and attach a copy of the notice of relocation you received to your application. Please indicate the date you were given the notice.

If you were not given written notice of relocation, select the last option and indicate the date you became aware of the planned relocation and explain how you learned the other guardian is planning to relocate.

## Provincial Court Family Rules - Early Resolution and Case Management Forms

### ▶ Fillable PDF forms with supporting guidebooks

- ▶ BC Government website December 7, 2020

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/prov-family-forms>

### ▶ Paper forms

- ▶ Justice Access Centre, Surrey Provincial Court, Victoria Law Courts
- ▶ other registries can print forms as requested for parties

### ▶ Web-based application

- ▶ Application About a Protection Order
- ▶ Beta targeted for December 7, 2020

# Provincial Court Family Rules - Early Resolution and Case Management Under Development - Web based application

BRITISH COLUMBIA  
Apply for a Family Law Act Protection Order BETA

**Application Steps**

- STEP 1 Get Started
- STEP 2 Your Information
- STEP 3 Protection Order**
  - Protection From Whom?
  - Remove person or belongings
  - No Go
  - Weapons and Firearms
  - Background
  - Your Story
  - Urgency
- STEP 4 Submit

**No Go**

Are there any places where you want {RespondentName} to stay away from?

YES  NO

Select the places where you want {RespondentName} to stay away from

If you select "Other" and need to write more than 1 place, write them all and separate each place with a comma.

- Residence
- School
- Place of Employment
- Child care facility
- Other (describe)

**i** For this service, you do not need to give the addresses of the places you want {RespondentName} However, the judge may request them for the Protection Order so be prepared to bring the address with you.

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## COVID-19 Support Variation

- ▶ Rationale
- ▶ Practice Direction # FAM 08, July 02, 2020  
EARLY RESOLUTION PROCESS AND EXPEDITED COURT PROCESS TO CHANGE OR SUSPEND CHILD OR SPOUSAL SUPPORT DUE TO COVID-19
- ▶ Early resolution process and expedited court process that is available (but not required) for a party who is **only** seeking a suspension or change to an existing agreement or Provincial Court order about child support or spousal support as a result of a change in income since January 2020 that is related to **COVID-19**.

## COVID-19 Support Variation

# Overview and experience so far

- ▶ 1. Early resolution: Get help from a Justice Access Centre or a Family Justice Centre to see whether you and the other party can agree on a change. If you can, they will let you now how to get legal advice and will also help you formalize your agreement.
- ▶ 2. Case management: If you and the other party can't agree, you can get help with preparing for court.
- ▶ 3. Expedited court process: The Court is hearing applications by telephone or videoconference.
- ▶ What's next?

PCFR - Early Resolution and Case Management  
and  
COVID-19 Support Variation

**Thank you**

[JSB.FPLT@gov.bc.ca](mailto:JSB.FPLT@gov.bc.ca)



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