

Family Law Act Modernization Project

Phase 2: Care of and Time with Children and Protection from Family Violence

Policy Intentions Paper

Introduction

The purpose of this Policy Intentions Paper (the Paper) is to set out policy changes the Ministry of Attorney General (the Ministry) intends to recommend in Phase 2 of the *Family Law Act* Modernization project. The changes relate to the following broad categories of family law topics:

- Guardianship, parenting arrangements and contact with a child
- Relocation of a child
- Child-centred decision making
- Children’s views and parenting assessments and reports
- Family violence and protection orders
- Parentage
- Indigenous cultural property

The policy reforms presented in the Paper represent policy shifts that the Ministry intends to propose through legislative amendments to the [*Family Law Act*](#) (FLA). Explanations for the key policy changes are explained in each of the chapters, and a full list of the changes highlighted in this paper can be found in Appendix A.

The Paper does not set out all the specific changes the Ministry is contemplating for the FLA. Changes that are technical or administrative in nature, that merely add clarity to the Act, or that are relatively small policy adjustments have not been included.

The following common themes emerge in the changes highlighted throughout the Paper:

Modernizing the Act to Reflect Modern Family Structures – There are policy areas where the case law or feedback demonstrated that existing FLA provisions no longer match social views. For instance, the parentage provisions in the Act that determine who is a child’s parents, do not currently reflect all modern family structures. Another example is that provisions about protection orders, which keep people safe from family violence, exclude

some individuals because the definition of “family member” is focused on individuals living in the same household.

Improving protection for survivors of family violence – Family violence is accompanied by trauma - for the survivors, for children exposed to the violence and for other family members. A number of proposed policy reforms are intended to improve how family violence is recognized and addressed under the FLA and to minimize further trauma. This includes updating the definition of family violence to reflect the current understanding of how violence is perpetrated in family relationships, extending the default duration of protection orders, making it less onerous for survivors to apply for subsequent protection orders, and emphasizing that parenting arrangements must promote safety for the children, the parties and other family members.

Increasing flexibility for Indigenous perspectives, customs, practices and traditions – Intended reforms propose additional flexibility to allow guardianship and parenting arrangements to better reflect Indigenous family structures, including the development of best interests of an Indigenous child factors. The intended changes also recognize the important role that members of an Indigenous community can play in helping Indigenous children share their views and Indigenous families resolve disputes. The reforms related to Indigenous cultural property also more clearly recognize property division issues unique to separations involving at least one Indigenous spouse.

Supporting parents and guardians to resolve family law matters outside of court through agreements – A key objective of the FLA is to encourage families to deal with family law matters outside of court where appropriate. Some of the policy reforms recognize that parents and guardians may be best positioned to make important choices and decisions for their families, whether that means using an agreement to set out who is intended to be a child’s parents regardless of how the child is conceived, using an agreement to designate a guardian for a child, or using an agreement to obtain a parenting assessment or views of the child report.

Reducing financial burden for families – Some of the policy shifts have an additional outcome of reducing costs for families. For example, a new framework for parenting assessments and views of the child reports will introduce criteria the court must consider for ordering different types of reports. Less intrusive and less costly reports may be ordered to obtain the views of a child in more cases, whereas more intrusive and more costly reports may only be ordered if certain criteria are met. Other changes will increase the flexibility in who may bring forward information about a child’s best interests to the court, which will allow for less costly options. Also, when it comes to forming families, a change in policy will allow people to be recognized as parents when sexual intercourse is used as a

means of assisted reproduction, rather than using more costly assisted reproductive technologies.

Improving children’s opportunities to share their views – It is internationally recognized that children have a right to express their views in matters that affect them, giving due weight to their age and maturity. Proposed policy reforms are intended to provide children with better opportunities to share their views when decisions, such as parenting arrangements, are made that impact them. Offering a child opportunities to share their views in a way that is culturally appropriate and considers their comfort and needs, is not only good for the child’s well-being, but can also lead to better informed decisions made in the child’s best interests. Better informed decisions may also help avoid rising conflict and can help parties address future issues that arise without having to go to court.

Project History

The FLA came into force in 2013. It made fundamental changes to the way that family law disputes are handled in BC. These changes included introducing new language for how parenting arrangements are conceptualized, a clear requirement for the best interests of a child to be at the centre of decisions relating to the child, an expanded understanding of what is family violence and a new regime to protect from this type of violence, a new regime for how relocation is handled, and many more.

The Ministry is now conducting the FLA Modernization project to determine whether amendments are needed to reflect legal and societal changes that have happened since the FLA came into force and to ensure that it continues to meet the needs of families.

The project is happening in phases. In Phase 1, the Ministry reviewed provisions and resulted in changes to the FLA relating to division of property, pensions and spousal support, as summarized in the January 15, 2024 BC Government news release: [*New changes will make family law work better for families.*](#)

In Phase 2, the Ministry is reviewing topics within the FLA that make up the core of what family law in BC is all about - considering who are a child’s parents, decisions about caring for and spending time with a child, and protection from family violence. Phase 2 began with early engagement with subject matter experts, the anti-violence sector, and Indigenous peoples with lived experience, as well as with young people, persons with disabilities and neurodiversity, and newcomers, immigrants and refugees. Dialogue with these groups helped identify current issues that families in BC are facing with respect to Phase 2 topics and contributed to the development of a technical Discussion Paper and surveys for broader public engagement.

The analysis and engagement feedback considered in the development of the Paper is summarized in materials and related reports published on the govTogetherBC *Making*

Family Law Better for Families [webpage](#). The Phase 2 engagement materials and reports, including hyperlinks to each, are listed in Table 1. The intended policy changes reflect the consultation feedback received and documented in the reports as well as the Ministry's research and analysis.

Table 1: FLA Modernization Engagement Phase 2 Materials and Reports

Materials and Reports	Title and Links
Discussion Paper	Family Law Act Modernization Project: Care of and Time with Children & Protection from Family Violence – Discussion Paper (published in January 2024)
What We Heard report (Public Engagement)	Family Law Act Modernization Project Phase 2: Care of and Time with Children & Protection from Family Violence – What We Heard report (published in September 2024)
What We Heard report (Indigenous Dialogue Sessions)	Family Law Act Modernization Dialogue Sessions – What We Heard report (published in 2024)
What We Heard report (Métis Nation British Columbia Dialogue Session)	Family Law Act Modernization Métis Nation British Columbia (MNBC) Dialogue Sessions – What We Heard report (published in 2024)



The Ministry would like to thank the British Columbia Law Institute (BCLI) for leading a project to review the parentage provisions under Part 3 of the FLA, which culminated in a final report with recommendations published in June 2024. The parentage provisions establish who a child’s parents are for all purposes of the law in BC, including when a child is born as a result of surrogacy or another form of assisted reproduction.

Navigating the Paper

This Policy Intentions Paper (the Paper) is divided into seven chapters based on the broad categories of family law issues the Ministry reviewed and is now intending to recommend corresponding policy changes. The first five chapters cover the same topics that are discussed in the same five chapters of the Discussion Paper (linked in the table above) and the What We Heard report (linked in the table above). Readers may wish to refer to these documents for more background information, including specific engagement questions and feedback related to the intended policy reforms highlighted in this paper.

The last two chapters of the Paper – Parentage and Indigenous Cultural Property – are not included in the previous Discussion Paper or What We Heard report but are also based on the Ministry’s ongoing engagements and analysis on these topics. The Ministry intends to recommend policy reforms for these two topics along the same timeline as the other Phase 2 work.

Throughout the Paper, coloured boxes are used to draw attention to key information. Gold, orange, blue, and green boxes specifically highlight the following information:

Gold boxes indicate the proposed changes and how they help families.

Orange boxes indicate where Indigenous perspectives are particularly engaged.

Blue boxes indicate some current legal terms and realities that helped inform our intended policy reforms.

Green boxes indicate examples to illustrate the rationale for particular intended policy changes or how amendments may result in better outcomes for families.

Appendix A provides a list of the key intended policy changes discussed in the Paper. As mentioned above, the policy reforms presented here are not exhaustive, but are intended to highlight the key policy shifts the Ministry intends to put forward through legislative amendments to the FLA. As noted above, smaller policy adjustments or technical or administrative changes that may lead to amendments are not included in the Paper.