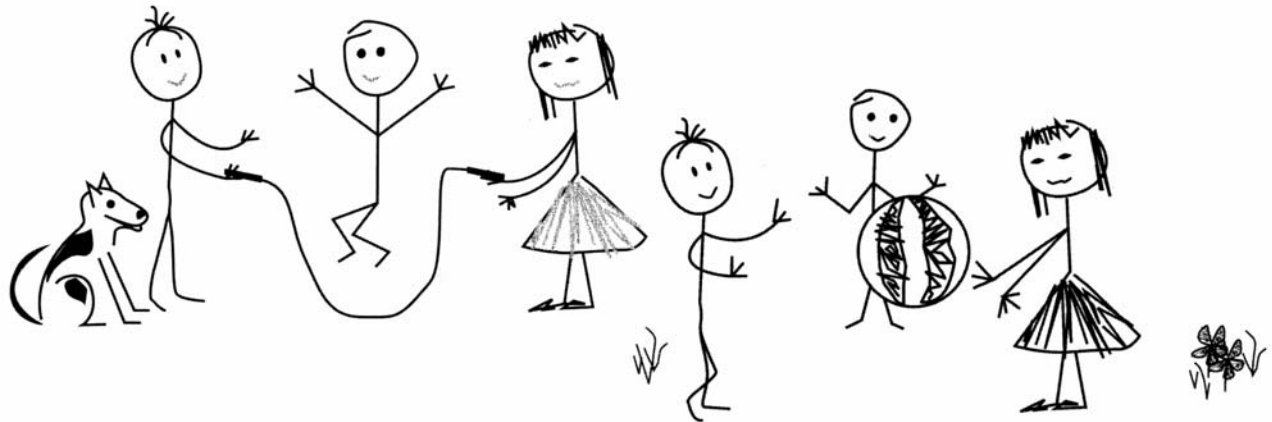


FAMILY JUSTICE

N E W S L E T T E R



Volume 3

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Kids
come
first

Update from the Family, Children and Youth Section

Child-centred Family Justice Strategy: Two years on

The purpose of the Child-centred Family Justice Strategy, which was announced by the Minister of Justice on December 10, 2002, is to help parents focus on the needs of their children following separation and divorce and is composed of three pillars: family justice services, legislative reform, and expansion of Unified Family Courts (UFC).

In the two years since the Strategy was first announced, the family justice services pillar has been the cornerstone of the Strategy. The strength of the family justice services pillar provides a clear illustration to our partners and the public of the federal government's ongoing commitment to assisting the provinces and territories in providing family justice services, and ensuring that the process of separation and divorce remains focussed on the best interests of children. This impact has not gone unnoticed, and the services funded through the Strategy are widely recognized by such organizations as the Canadian Bar Association as being highly effective and meaningful to Canadians in the midst of trying and difficult life transitions.



Update from the Family, Children and Youth Section (cont'd)

Child-centred Family Justice Strategy: Two years on

(cont'd from page 1)

The three family justice activities carried out under Family Justice Initiatives, the main component of the Child-centred Family Justice Fund (CCFJF), are: Integration, Enforcement and Research. Integration activities include services such as the Family Law Information Centres, now available in five provinces and territories, and Parent Education Programs, offered in all jurisdictions. Mediation, conciliation and support variation services are among other activities that integrate child-centred legislative changes, services and programs. Enforcement activities continue, expand and improve the provinces' and territories' Maintenance Enforcement Programs and interjurisdictional support enforcement efforts so that orders are complied with and child support payments are made in full and on time to those who need it, wherever they may be located. Provinces and territories also engage in research activities, which include feasibility studies for new and innovative services and evaluation of the effectiveness and efficiency of services provided.

Just a few of the enhancements, expansions, new approaches and improvements in services that could not have been developed without the CCFJF include:

- British Columbia's trailblazing website for children and teenagers (www.familieschange.ca), which has received international recognition from the American National Child Support Enforcement Association and International Heads of Agencies. For more information, see the article in the Provincial/Territorial Corner.
- Nunavut Department of Justice's *Inuusirmut Aqqusiuqtiit*, which is an innovative dispute resolution, counselling and information program that combines southern-based mediation techniques with traditional Inuit approaches to problem-solving in order to deliver culturally relevant dispute resolution services to Inuit people.
- The creation of administrative recalculation services, which encourages provinces to set up such services to assist parents in determining and recalculating child support amounts. These services are intended to provide timely, accessible, cost-efficient and non-adversarial methods for parents to update child support orders and agreements.
- Prince Edward Island's *Positive Parenting from Two Homes: For Kids!*, a child education program which builds on the parent education program developed previously by the province. For more information see the article in the Provincial/Territorial Corner.
- Pilot projects, which are proposed by provincial and territorial governments to develop, implement and evaluate innovative family justice services. For example, in Saskatchewan, they are building on their supervised access program to offer a comprehensive and integrated service plan for couples in high conflict situations.
- Family Law Information Kits for service providers and intermediaries, which were produced and distributed to enhance access to family law information for hard to reach clients.
- Professional Training projects, such as the British Columbia Law Courts Education Society's unique *Aboriginal Parent Education Project*. The objective of this project is to provide culturally appropriate information to Aboriginal parents who are considering separation, or have separated, and their communities so that they can resolve their family, legal and parenting issues in a manner consistent with the best interests of the children.
- Using the Fund, provinces were able to execute more sophisticated research on program outcomes and effectiveness, such as conducting longitudinal studies on the longer-term impacts of dispute resolution services.
- An extensive social research program on parenting and legal issues relating to separation and divorce, conducted by the Department of Justice Canada, the results of which can be found at www.justice.gc.ca/en/ps/pad/reports
- Public Legal Education and Information services including: maintaining a toll-free Family Law Information Line for questions from the public on child support, parenting after divorce and other issues, and, publishing research reports and publications such as *Divorce Law: Questions and Answers*.

Update from the Family, Children and Youth Section (cont'd)

Child-centred Family Justice Strategy:

Two years on

(cont'd from page 2)

The first two years of the Child-centred Family Justice Strategy have seen considerable improvements in the abilities of our provincial and territorial partners to propose, develop, administer research, evaluate and report on family justice services that put the needs of children first during divorce and separation. These family justice services are vital in achieving direct positive impacts on Canadian families, and are integral to the commitment made by the Government of Canada two years ago. ❖

Enforcement Unit

The New Support Enforcement Web Site

The Department of Justice Canada is pleased to announce the addition of a new section to the Child Support web site. The Child Support site now includes information and links on family support enforcement in Canada. Developed with the assistance and approval of the Federal-Provincial-Territorial Interjurisdictional Support Sub-committee, the new site includes information materials on reciprocal enforcement of support orders nationally, and internationally. Links are provided to provincial and territorial maintenance enforcement programs and interjurisdictional support enforcement information and legislation.

It can be accessed online at:

<http://www.justice.gc.ca/en/ps/sup/enforcement> ❖

Hague Conference Draft Convention on Maintenance Obligations

As part of its 2000-2004 work program, the Hague Conference on Private International Law is preparing a new international instrument in relation to maintenance obligations.

In April 1999, a Special Commission of the Hague Conference reviewed the 1956 and 1973 Hague Conventions on the Law Applicable to Maintenance Obligations, the 1958 and 1973 Hague Conventions on the Recognition and Enforcement of Decisions relating to Maintenance Obligations as well as the United Nations' 1956 New York Convention on the Recovery Abroad of Maintenance. Canada is not a party to any of the Conventions, but has an interest in the subject.

Several problems with these Conventions were identified: the complete failure of some States to carry out their obligations under the Conventions; differences of interpretation, practice and enforcement under the Conventions; cumulative application of the Conventions; and practical issues, such as the best method of transferring funds. Moreover, the Conventions have not met the needs of the dependants requiring support, the New York Convention has contributed, in part, to inconsistent interpretation and practice, various changes have occurred in national legislation, and the proliferation of international instruments has created a complex system.

In June 2001, the Hague Conference decided to include the project as a priority. A first Special Commission was held from May 5-16, 2003 and a Second Special Commission was held from June 7-18, 2004.

The Canadian delegation to the second Special Commission comprised Mounia Allouch and Manon Dostie, Counsels with the International Private Law Section of the Department of Justice of Canada; Danièle Ménard, Senior Counsel/Coordinator with the Family, Children and Youth Section of the Department of Justice of Canada and federal co-chair of the Interjurisdictional Support Sub-Committee; Denise Gervais, civil law expert from Quebec, and Tracy Morrow, common law expert from Manitoba and the provincial co-chair of the Interjurisdictional Support Sub-Committee.

Some major questions discussed at the second Special Commission included:

- the cost of legal aid and assistance and other services provided by the Central Authorities and/or their intermediaries, whether free of charge and whether on a bilateral basis;
- the designation of central authorities and their specific and general functions;
- the types of applications available under the Convention;
- the use of information technologies;
- the possibility of rules on applicable law and on direct jurisdiction in the Convention;
- the recognition and enforcement of decisions; and,
- the scope and objectives of the Convention and, in particular, whether the Convention would be primarily or only applicable to children.

Update from the Family, Children and Youth Section (cont'd)

Hague Conference Draft Convention on Maintenance Obligations

(cont'd from page 3)

The latest version of the draft Convention and other relevant documents are available on The Hague Conference website, at http://hcch.e-vision.nl/index_en.php?act=progress.listing&cat=3

Any questions, including a request to obtain the Report of the Canadian Delegation, may be addressed to Mounia Allouch at (613) 946-7472 or mounia.allouch@justice.gc.ca ❖

Family Law Policy Unit

Spousal Support Project—Draft Proposal is released in January 2005

Readers may recall from last year's *Newsletter* that the Department of Justice Canada had funded a project to explore ways of bringing more consistency and predictability into the current law of spousal support and, in particular, the option of developing guidelines that could be used on an advisory basis only within the existing legislative framework.

Professors Carol Rogerson of the University of Toronto Law School and Rollie Thompson of Dalhousie Law School are the project directors. In January 2005, the two project directors completed a paper, entitled *Spousal Support Advisory Guidelines—A Draft Proposal*.

Copies are available from the Justice website at <http://www.justice.gc.ca/en/dept/pub/spousal/project/index.html> ❖

Research Unit

In the past year, the following reports have been completed and published by the Research and Statistics unit assigned to the Family, Children and Youth Section of the Department of Justice Canada. These reports, and many others, can be accessed at <http://canada.justice.gc.ca/en/ps/sup/pub/lstrsrchr.html>

Research on Compliance with Child Support Orders and Agreements in Prince Edward Island (2003-FCY-1E) by Alderson-Gill & Associates.

Linking Family Change, Parents' Employment and Income and Children's Economic Well-Being: A Longitudinal Perspective (2003-FCY-2E) by Heather Juby, Céline LeBourdais and Nicole Marcil-Gratton.

Report on Family Law Research in Nunavut (2003-FCY-3E) by Kelly Gallagher-Mackay.

The Survey of Child Support Awards: Analysis of Phase 2 Data Collected Through January 31, 2002 (2003-FCY-4E) by Lorne D. Bertrand, Joseph P. Hornick and Joanne J. Paetsch.

Managing Contact Difficulties: A Child-Centred Approach (2003-FCY-5E) by Rhonda Freeman and Gary Freeman.

High Conflict Separation and Divorce: Options for Consideration (2004-FCY-1E) by Glenn A. Gilmour.

Voice and Support: Programs for Children Experiencing Parental Separation and Divorce (2004-FCY-2E) by Pauline O'Connor.

Child Custody Arrangements: Their Characteristics and Outcomes (2004-FCY-3E) by Sharon Moyer.

Evaluation of the B.C. Family Maintenance Enforcement Program's Pilot Outreach Project (2004-FCY-4E) by Focus Consultants.

Shared Custody Arrangements: Pilot Interviews with Parents (2004-FCY-5E) by Rick Gill. ❖

Provincial/Territorial Corner

Alberta Justice

Maintenance Enforcement

Bill 18, the *Maintenance Enforcement Amendment Act*, was passed by the session of the Alberta Legislative Assembly in the spring of 2004. Enhanced enforcement tools provided by the amendments contained in the Act included: the imposition of fees on clients to deter unproductive behaviours, restriction of hunting and fishing licences, access to Locked In Retirement Accounts (LIRAs), formal examination of debtors' financial records by the Executive Director, and others. In addition, the Alberta Maintenance Enforcement Program (MEP) will be implementing a deterrent fees and charges net budgeting initiative in the spring of 2005.

The Alberta MEP has replaced its outdated mainframe Maintenance Enforcement Tracking System (METS) with a user-friendly, Windows-based automated system. The Maintenance Information Management System (MIMS) commenced operation in October 2004. ❖

British Columbia—Ministry of Attorney General

Launch of Web site for Children and Teens

Familieschange.ca is a Web site designed to help children and teens deal with questions that they have when their parents separate or divorce. The site was developed by the British Columbia Ministry of Attorney General with funds contributed by the Department of Justice Canada. The Law Courts Education Society hosts the site.

The site is the first of its kind in Canada. It has two sections, one for children aged 5 to 12, and one for pre-teens and teens. The site covers a range of topics including:

- What happens in court, and what do words like divorce and custody mean?
- How will my life change?
- Am I the only one who feels like this?
- Where can I go for more information and help?

The new Web site is available to school and family counsellors and others who provide services to families in transition. It will also be one of the resources promoted in the Parenting after Separation program. Both sections of the Web site are available in Flash or HTML versions.

To view the site, please visit:
<http://www.familieschange.ca> ❖

Manitoba Justice

Property Rights Legislation for Common-Law Partners

The *Common-Law Partners' Property and Related Amendments Act*, S. M. 2002, c. 48 was proclaimed in force June 30, 2004, except for three provisions addressing automatic revocation of wills. This omnibus legislation amended 56 Manitoba statutes to extend the province's family property regime to both opposite-sex and same-sex common-law partners.

The legislation creates both a registry under *The Vital Statistics Act*, and an ascription system. If they do not register, the period of cohabitation for a couple to qualify is usually, but not always, 3 years. All common-law partners who have either registered or cohabited for the required time are included in all legislation dealing with property division and distribution. All Manitoba legislation providing rights and obligations to common-law partners is also amended, so that those who register their common-law relationships assume those rights and obligations immediately.

Public information about the Act is available online at:

<http://www.gov.mb.ca/justice/family/familyindex.html>
 (English)

<http://www.gov.mb.ca/justice/family/familyindex.fr.html>
 (French) ❖

Provincial/Territorial Corner (cont'd)

Manitoba Justice

(cont'd from page 5)

Same Sex Marriage Case

Vogel et al. v. The Attorney General of Canada et al. was heard September 16, 2004 before the Honourable Mr. Justice Yard of the Queen's Bench (Family Division).

Justice Yard found that the opposite sex requirement in the common law definition of marriage is of no force and effect because it violates equality rights guaranteed by s. 15(1) of the *Charter* and is not saved by s. 1. He declared that the common law definition of marriage in Manitoba is reformulated to be the voluntary union for life of two persons to the exclusion of all others. By consent, the issue of costs was adjourned. ❖

New Brunswick Justice

New Brunswick Court Ordered Evaluations Support Program

In September 2004, New Brunswick launched a pilot project called the *Court-Ordered Evaluations Support Program* (C-OESP). This program provides financial support to eligible parents when the Court has ordered a custody evaluation to help determine the post-separation parenting arrangement that would be in the best interests of the children.

To obtain such assistance, parents apply to the Program Support Branch, Court Services Division, Department of Justice, where a financial means test is applied to determine their eligibility and the extent of the financial support to which they may be entitled. Parents who qualify receive written confirmation of the financial support to be provided. They then seek out the services of an appropriate evaluator. Upon completion of the evaluation, the evaluator will bill the Department of Justice for either complete or partial remuneration for the services rendered, in accordance with the fee schedules and policies and procedures set out in the C-OESP handbook.

Exceptions:

- Parents who are/have been involved with the Department of Family and Community Services' child protection branch. Such parents can expect the costs of evaluations to be covered by that Department.

- Parents who are represented by a Legal Aid New Brunswick Family Solicitor under the Domestic Legal Aid program. The costs of their evaluation are treated as a disbursement, and thus paid by Legal Aid New Brunswick. ❖

Ontario—Ministry of the Attorney General

New Developments at the Family Responsibility Office

There are many changes taking place at the Family Responsibility Office (FRO) in Ontario. FRO has the legal responsibility of enforcing the provisions for child and spousal support in orders issued by the court, or in domestic or paternity agreements filed for enforcement. Recent changes include:

- In February 2004, Ontario's Ministry of Community and Social Services, under which FRO operates, announced that it would be moving toward a case-management system.
- An announcement was made in the Provincial Budget in May 2004 that the province will invest \$40 million over the next four years to improve FRO's ability to collect support payments.
- FRO has established a dedicated client service unit to handle administrative and general inquiries. This allows the agent line to provide better customer service on more complex enforcement inquiries. As a result, FRO will be able to handle up to 1,300 additional calls a day, and focus on enforcement of cases in arrears.
- A Personal Identification Number project has been implemented to enable FRO's clients to securely access an expanded range of their case information, available 24/7 on the automated voice telephone system.
- Effective November 18, 2004, FRO's new hours of service are 8:00 a.m. to 5:00 p.m., Monday through Friday. The expanded hours will increase the availability of agents during peak hours.

As further changes to the Family Responsibility Office are implemented, updates will be provided. ❖

Provincial/Territorial Corner (cont'd)

Prince Edward Island—Office of Attorney General

Positive Parenting from Two Homes “For Kids!” Program

Positive Parenting from Two Homes “For Kids!” is a voluntary, educational children’s program in Prince Edward Island that was developed in May 2002, as a result of requests from parents who had participated in the *Positive Parenting from Two Homes* program. The program aims to help children learn about separation and divorce, to provide a safe and neutral place to discuss thoughts and feelings, to help children learn they are not alone, and to teach coping skills in a fun and supportive environment.

Each program is presented over four weeks in four two-hour sessions. The program is divided into three age groups: 6 to 8, 9 to 12, and 13 to 16. There are a maximum of 10 participants per group. One or both parents must have already taken the parenting information sessions, and siblings attend different sessions. The programs are free of charge.

Program manuals and resources are developed for each age category. Two social workers facilitate each session, providing information through group discussion, activities, stories, art, videos, play, and role playing. At the end of the program, participants receive a workbook to take home that reviews the material discussed in the sessions.

The program was evaluated in June 2003. The evaluation concluded that the pilot program was well designed, effectively implemented, and helped participants adjust to their parents’ separation and divorce. Children enjoyed the program immensely, and parents stated that the program had benefited their child.

To date, 39 boys and 27 girls have participated in the program. Future plans include expansion to the school system at the Junior and Senior High School levels. ❖

Yukon Department of Justice

“Kids don’t divorce, parents do.”

The above is a quote from one of the radio advertisements commissioned by Yukon’s Department of Justice. Over the past nine months, the Department has been running 16 different ads on commercial radio stations. The ads were aimed at encouraging parents to attend Parenting After Separation workshops, and to pay their child support.

The ads were developed as a result of a Child Support Needs Assessment for First Nation and rural Yukoners. The assessment determined that there was not a lot of understanding about maintenance enforcement or about the parent education services available in our smaller communities. The ads were positive, community-based and used both First Nation and non-First Nation voices.

A local playwright, working with local actors, produced the radio advertisements after receiving substantial input from service providers. Examples of the ad scenarios included: two males out in the bush speaking about their kids, children talking on a playground, and, a conversation about a situation in which the mother pays child support. All the ads were framed in positive language that tells how parents can help their kids.

The ads have had a fairly wide audience and have been well received. The feedback received from the First Nation service providers was that the ads were very effective because they were positive and respectful. A number of maintenance enforcement programs have expressed interest in using the ads for their own communications campaigns.

For more information contact the Yukon Family Justice Project Officer at (867) 667-3066. ❖

Provincial/Territorial Corner (cont'd)**Provincial/Territorial Information**

For further information on provincial or territorial child support guidelines and related programs, please call the following number within each province or territory:

Alberta

Calgary (403) 297-6600
 Edmonton (780) 415-0404
 Dial 310-0000 for toll-free access

British Columbia

Vancouver 1-888-216-2211
 (604) 660-2192

Manitoba

Winnipeg 1-800-282-8069 ext. 0268
 (204) 945-0268

New Brunswick

1-888-236-2444

Newfoundland and Labrador

(709) 729-1831

Northwest Territories

1-888-298-7880

Nova Scotia

Halifax

1-800-665-9779 ext. 2
 (902) 455-3135

Nunavut

Iqaluit

1-800-792-4183
 (867) 975-6137

Ontario

1-800-980-4962

Prince Edward Island

Charlottetown

1-800-240-9798
 (902) 892-0853

Quebec

Communication-Québec
 1-800-363-1363
 Ministère de la Justice du Québec
 (418) 643-5140

Saskatchewan

1-888-218-2822

Yukon

Whitehorse

1-800-661-0408 ext. 3066
 (867) 667-3066