



Legal
Services
Society

British Columbia
www.lss.bc.ca

Backgrounder

May 25, 2005

Family Law Advice & Representation Services

Limited Supreme Court family referrals

Low-income people who are not eligible for emergency referral services (see page 2) but cannot avoid taking their dispute to Supreme Court may be able to get a limited scope family referral.

These limited referrals provide eligible clients with up to 14 hours of assistance from a lawyer. The referrals allow lawyers to “unbundle” their usual services so they can help those who need more assistance than family duty counsel and advice lawyers can provide.

Referrals are covered by the family tariff and will help up to 500 clients each year. They include a range of services (excluding representation in court) and are available to clients who —

- would not be covered by an emergency services referral and whose case must be litigated in Supreme Court;
- meet the LSS financial eligibility guidelines for representation services;
- are unable to deal with the matter using other available resources; and
- will likely suffer a significant injustice if no legal assistance is provided.

Services include —

- advising clients about options and case strategy;
- helping clients prepare pleadings;
- reviewing affidavits and correspondence;
- negotiating settlements with opposing parties or helping clients negotiate;
- helping clients draft separation agreements or consent orders;
- referring clients to other resources such as self help kits, family justice counsellors, or mediation;
- providing mediation support or collaborative law services;
- providing legal research and analysis;
- coaching clients to represent themselves in court; and
- attending judicial case conferences with clients.

Suite 400
510 Burrard Street
Vancouver, BC V6C 3A8

Tel: (604) 601-6000
Fax: (604) 682-7967

Legal representation

Emergency referrals

Legal representation in family law is restricted to financially eligible people who —

- are victims of domestic violence or at risk of violence and likely need a physical restraining order or other legal assistance to protect their safety,
- have a child or children who are at risk of violence and a supervised access order or restraining order is needed to protect them,
- need a change to a current custody or access order to ensure their and/or their child(ren)'s safety, or
- need a non-removal order to prevent the other parent from permanently moving their child(ren) out of the province (the threat must be real and imminent, and involve a permanent change of residence).

Legal assistance for a family law problem is usually limited to one emergency referral. This may include several actions under the Family Relations Act or the Divorce Act, such as obtaining custody, access, and maintenance orders; orders preventing the other parent from selling or disposing of family assets; or restraining orders. Emergency referrals usually do not provide enough hours for the lawyer to go to trial.

Coverage exceptions

Coverage may be approved in extenuating circumstances. These include situations where —

- court documents refer to sexual, physical, or emotional abuse and the offending parent or partner is back in the community;
- a serious condition or disability makes the applicant unable to represent him or herself and the family matter must be resolved to avoid further harm;
- a child is kidnapped by the access parent and there is an existing custody order or separation agreement;
- the applicant is the respondent in a maintenance enforcement committal proceeding and will be sent to jail as a result of the failure to pay maintenance;
- there has been complete denial of access for three months or more, in breach of a court order or separation agreement; or
- the applicant is a victim of litigation harassment.

Child protection

LSS provides legal representation to financially eligible clients who have a legal problem that falls under the Child, Family, and Community Service Act (CFCSA) and the LSS CFCSA coverage guidelines. The LSS guidelines cover situations where —

- the Ministry of Children and Family Development has taken, or has threatened to take, their child(ren) away from them, or
- legal representation is required to deal with custody and access issues related to a child in the care of the Ministry for Children and Family Development.

Backgrounder: Family law advice & representation services

Extended services

Extended family services referrals are available for legal aid clients whose high conflict cases, if left unresolved, would leave them at great risk.

These referrals are designed specifically for clients whose high conflict cases cannot be dealt with through mediation. The program provides lawyers with an additional 40 hours for court attendance and preparation time so they can help clients attain longer-term resolutions to their legal problems than is normally possible through the society's emergency services coverage.

Lawyers with legal aid referrals issued January 1, 2004 or later, and who believe they have cases that warrant this additional coverage, apply to LSS for the extended services on behalf of their clients. To be eligible, cases must entail one or more of the following:

- significant contested issues involving sexual, mental, or physical abuse of the client or the client's children,
- significant involvement with the Ministry of Children and Family Development,
- an unreasonably litigious opposing party who is using the justice system to continue a pattern of abuse,
- a significant risk of alienation from the client's children,
- an abused client and/or the client's children may be left at risk or without security if coverage of the case is discontinued, or
- a client and/or the client's children may suffer significant harm or injustice if an outstanding issue such as property or spousal support is left unresolved.

Legal advice

Family duty counsel (FDC)

FDC are lawyers at Provincial Courts in BC who give legal advice to unrepresented clients with family law and child protection problems. These lawyers can speak for clients in court on simple matters such as adjournments, consent and emergency restraining orders, and uncontested custody, access, and support hearings. They can also help clients draft documents, review documents to be filed in court, and negotiate and settle issues. Duty counsel do not provide representation at trial.

A family duty counsel pilot project for unrepresented litigants in the Vancouver Supreme Court began in October 2004. This pilot offers similar services to those offered by family duty counsel at the Vancouver Provincial Court. Lawyers are in the Supreme Court once a week for four hours to help unrepresented litigants with family matters in chambers that day, and appointments for advice are available during the balance of the week.

Family advice lawyers

These lawyers are available in some Supreme Courts and at some family justice counselor (FJC) offices to help unrepresented clients before and/or after their court appearance. These lawyers help clients prepare their case and follow up on what took place during the proceedings. Advice lawyers at several FJC offices can also help low income parents who are going through separation or divorce and are participating in the FJC mediation process. (Located at Supreme Courts in Kamloops, Kelowna, Prince George, Terrace, Vancouver, and Victoria, and at family justice counsellor offices in Kamloops, Kelowna, Prince George, Surrey, Vancouver, and Victoria.)