



**COMOX VALLEY REGIONAL CONFERENCE
Family & Child Protection Law, Aboriginal Services & Civil Law Issues**

**Crown Isle Resort
399 Clubhouse Drive
Courtenay, BC V9N 9G3**

AGENDA – Tuesday February 20

Time	Session	Speaker	Facilitator
8:00 – 9:00	<i>Registration & Breakfast</i>		
9:00 – 10:30	Overview of Family Law Act	➤ <i>Shannon Aldinger - Family Lawyer</i>	Baljinder Gill
10:30 – 10:45	<i>Coffee Break</i>		
10:45 – 11:15	Overview of LSS Intake services	➤ <i>Silvia Tobler – LSS</i>	Baljinder Gill
11:15 – 12:30	Domestic Violence and Protection orders	➤ <i>Shannon Aldinger - Family Lawyer</i>	Baljinder Gill
12:30 – 1:30	<i>Lunch</i>		
1:30 – 2:45	Gladue, Restorative Justice and Criminal Justice System	➤ <i>Anisa White - Gladue writer</i> ➤ <i>Larry Winter – Program Manager</i> ➤ <i>Dennis Evans - Criminal Lawyer</i>	Baljinder Gill
2:45 – 3:00	<i>Coffee Break</i>		
3:00 – 4:00	Overview of Criminal Justice System	➤ <i>Dennis Evans - Criminal Lawyer</i>	Baljinder Gill



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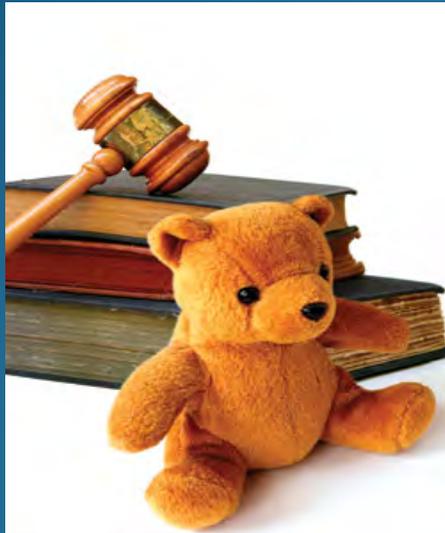
**COMOX VALLEY REGIONAL CONFERENCE
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399 Clubhouse Drive
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AGENDA – Wednesday February 21

Time	Session	Speaker	Facilitator
8:00 – 9:00	<i>Registration & Breakfast</i>		
9:00 – 10:30	Overview of Child Protection Law	➤ <i>Robin Havelaar – Child Protection lawyer</i>	Baljinder Gill
10:30 – 10:45	<i>Coffee Break</i>		
10:45 – 12:15	Wills and Estates	➤ <i>Jay Havelaar - Lawyer</i>	Baljinder Gill
12:15 – 1:00	Overview of other legal resources MyLawBC	➤ <i>Patricia Lim - LSS</i>	
1:00 – 2:00	<i>Lunch</i>		

Family Law Act – Overview (2018)



Shannon Aldinger
Family Law – Lawyer & Mediator
Courtenay, BC

A few basic points about context:

- The Family Law Act is key legislation in family law in BC
- It is not the federal *Divorce Act*
- Operates in the civil law sphere, with standard of proof being the balance of probabilities (unlike the criminal law sphere with standard of proof being beyond a reasonable doubt)
- Family law involves a process and usually requires parties to reach agreement or get a court order on both interim and final basis

Still early days ...

- The *Family Law Act* (the “FLA”) came into force on March 18, 2013.
- It replaced the former *Family Relations Act* (the “FRA”) in an effort to address the FRA’s shortcomings, such as:
 - The focus on and encouragement towards litigation;
 - The absence of any reference to family violence and meaningful relief to address it;
 - The absence of any reference to debt in relation to property division;
 - The absence of relief available for common law couples re: property division; and
 - The absence of remedies to combat bad behaviour of litigants.

The Key Changes:

- New approach to family law: shift away from litigation & towards out-of-court settlements
- Inclusion of and focus on family violence
- Approach to children:
 - Renewed focus on children, including emphasis on & guidance re: the Best Interests of the Child Test
 - New language re: parenting (no longer custody & access)
 - Guardianship by default
 - Determination of parentage
- Property division, including:
 - extension to common law couples and same sex couples;
 - new test re: what constitutes family property
 - New approach generally to dividing property;
 - inclusion of family debts; and
 - specific tests re: setting aside agreements
- Precision tools to manage bad behaviour of litigants

Part 1: Interpretation – Definition of Spouse

- Under the FRA, non-married spouses had no entitlement to property division.
- Common-law parties were relegated to using trust principles and the law of equity to resolve property disputes.
- Now, all persons who are married, or have lived in a marriage-like relationship for more than two years qualify (s. 3) under the FLA including for property division purposes.
- Parties living in a marriage-like relationship for less than two years but who have a child together are “spouses” for the purpose of spousal support claims.

Part 1: Interpretation – Definition of Family Violence

"**family violence**" includes

- (a) **physical abuse** of a family member, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm,
- (b) **sexual abuse** of a family member,
- (c) **attempts** to physically or sexually abuse a family member,
- (d) **psychological or emotional abuse** of a family member, including
 - (i) **intimidation, harassment, coercion or threats**, including threats respecting other persons, pets or property,
 - (ii) unreasonable restrictions on, or prevention of, a family member's **financial or personal autonomy**,
 - (iii) **stalking or following** of the family member, and
 - (iv) intentional **damage to property**, and
- (e) in the case of a child, direct or indirect exposure to family violence;

Mandatory Consideration of Family Violence

38 For the purposes of section 37 (2) (g) and (h) [best interests of child], a court **must** consider all of the following:

- (a) the nature and seriousness of the family violence;
- (b) how recently the family violence occurred;
- (c) the frequency of the family violence;
- (d) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at a family member;
- (e) whether the family violence was directed toward the child;
- (f) whether the child was exposed to family violence that was not directed toward the child;
- (g) the harm to the child's physical, psychological and emotional safety, security and well-being as a result of the family violence;
- (h) any steps the person responsible for the family violence has taken to prevent further family violence from occurring;
- (i) any other relevant matter.

Part 2: Resolution of Family Law Disputes

- Part 2 of the FLA promotes out of court resolution of family law disputes.
- Division 1 specifies “Resolution Out of Court Preferred”
 - Attempts to achieve goal by stating purposes as follows (FLA s. 4):
 - (a) To ensure that parties to a family law dispute are informed of the various methods available to resolve the dispute;
 - (b) To encourage parties to a family law dispute to resolve the dispute through agreements and appropriate family dispute resolution before making an application to the court;
 - (c) To encourage parents and guardians to:
 - (i) Resolve conflict other than through court intervention; and
 - (ii) Create parenting arrangements and contact with a child that is in the best interests of the child.
 - lawyers starting a legal proceeding for a client must also certify that they have complied with these requirements (s. 197 FLA)

Part 2: Resolution of Family Law Disputes (cont)

- Also attempts to achieve goal by imposing statutory obligations on lawyers and other family dispute resolution professionals (FDRP) to promote out of court resolutions and processes – FLA sections 8 & 9
- Section 8 (2) requires lawyers and FDRP to:
 - (a) discuss with the party the advisability of using various types of family dispute resolution to resolve the matter; and
 - (b) inform the party of the facilities and other resources available to assist in resolving the dispute

Part 2: Resolution of Family Law Disputes (cont)

- However, the FLA only supports settlements which are fairly negotiated and which take into account the presence of any family violence, therefore:
- Section 8(1) requires family dispute resolution professionals to assess whether family violence may be present and if family violence is present, must assess the extent to which the family violence may adversely affect
 - (a) the safety of the party or family member of that party; &
 - (b) the ability of the party to negotiate a fair settlementand take this into account when discussing the advisability of different types of dispute resolution & services available.

Part 2: Resolution of Family Law Disputes (cont)

- Further statutory obligation on family dispute resolution professionals (s. 8(3) FLA)
 - Must advise party that agreements & orders regarding (1) guardianship, (2) parenting arrangement, & (3) contact with a child must be made in the best interests of the child only
- Statutory duty on parties:
 - each party must provide full and true information for the purposes of resolving a family law dispute (s. 5 FLA)

Part 2: Resolution of Family Law Disputes (cont)

- Section 6: Agreements respecting family law disputes generally
- Agreements to be given deference unless “significantly unfair” (s.93 FLA re: property division & s. 164 FLA re: spousal support); less deference to agreements re: children
- Agreements re: child support & spousal support can be enforced as orders by filing with court (s. 148(2) & s. 163(3) FLA)

Part 2: Resolution of Family Law Disputes

- Division 2 codifies the role of Family Justice Counselors (“FJC”) as key resources in family law disputes
- Empowers FJCs to provide assistance as follows:
(1) to provide information, (2) to assist in resolving disputes concerning guardianship, parenting arrangements, contact with a child and child and spousal support, (3) to make referrals to other services and organizations, and (4) may assist the court by providing a section 211 report.

Part 2: Resolution of Family Disputes (cont)

- Division 3: Parenting Coordinators (“PC’s”)
 - Codifies the practice of using PC’s
 - Hybrid mediator/arbitrator - essentially a parenting referee with arbitration powers
 - Section 17 sets out what the PC can do (building consensus and making determinations)
 - Section 18 sets out the jurisdiction of PC’s
 - Section 19 leaves review powers to the Court
 - Despite some reservations from the BCCA (*Fleetwood*), the Courts have been overwhelmingly positive about this development and cases where an appointment was not made (if contested) are rare and generally turn on cost.

Part 4- Care and Time With Children

Between the *Divorce Act* (“DA”), the FRA and the FLA, the language has become somewhat tangled:

The DA

- Custody
(guardianship built in)
- Access
- Primary Residence.

The FLA:

- Guardianship
- Parenting Time
 - Parenting Responsibilities
- Contact (non-G’s)

The FRA:

- Guardianship
- Custody

Part 4: Available Remedies

- Guardianship orders if not already guardians by operation of the FLA;
- New language: Orders for “Parenting Arrangements” (s. 40):
 - Parenting Time (s. 42);
 - Parenting Responsibilities (s. 41);
- Orders for “Contact” (s. 59)
- Governance of Relocation (ss. 65 – 71)

Governing All of It: Best Interests Test

37 (1) In making an agreement or order under this Part respecting guardianship, parenting arrangements or contact with a child, the parties and the court must consider the best interests of the child only.

(2) To determine what is in the best interests of a child, all of the child's needs and circumstances must be considered, 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 parent to exercise parental responsibilities;

Best Interests of Child (continued)

(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.

(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.

Auto-Guardianship Under the FLA

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.

* * *

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

* * *

(c) the parent regularly cares for the child.

(4) If a child's guardian and a person who is not the child's guardian marry or enter into a marriage-like relationship, the person does not become a guardian of that child by reason only of the marriage or marriage-like relationship.

- **Note**: Under s. 51, a person can apply for guardianship.

Parenting Arrangements (s. 40)

- Sets out that only guardians are entitled to parenting responsibilities and parenting time: s. 40(1) FLA
- Each parent may exercise all parenting responsibilities but must consult with other guardians where appropriate (unless otherwise stated in an order or agreement): s. 40(2) FLA
- There is no presumption in favour of equal parenting time, equal parenting responsibilities, or that decisions must be made separately or together: s. 40(4) FLA

Parenting Responsibilities: S. 41

- Refers to the wide array of day-to-day tasks that are required of parents raising a child, including decisions about:
 - academics,
 - medical & dental treatment,
 - associations/relationships,
 - residence,
 - extra-curricular activities,
 - applying for passports & other ID,
 - giving/refusing/withdrawing consent,
 - starting court actions on behalf of a child, etc.

Parenting Time (s. 42)

- (1) Parenting time is the time that a child is with the guardian, as allocated under an agreement or order.
- (2) During parenting time, a guardian may exercise, subject to an agreement or order that provides otherwise, the parental responsibility of making day-to-day decisions affecting the child and having day-to-day care, control and supervision of the child.



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Contact (s. 59)

- Reserved for non-guardians only;
- Generally, would be the section under which a grandparent, aunt or other family member would seek an order for time with a child;
- Does not confer any right to make decisions about the child or exercise any parenting responsibilities;
- In theory, available to a parent who does not have guardianship, but begs the question as to why that person isn't applying for guardianship

Compliance (New Under the FLA)

- Under s. 61, if a parent denies the other parenting time, the Court can do multiple things including ordering the parent to attend ADR, to attend counseling, to provide make-up parenting time, to pay expenses related to denial, etc.
- Under s. 62, the denial is not found to be blameworthy if, for example, there was a reasonable basis to expect FV or the other parent was impaired or the child is too sick (provided medical note advising against parenting time or contact)
- Under s. 63, if a parent fails to take the parenting time to which they are entitled, that parent can be ordered to attend ADR, counseling, etc; the other parent can be awarded compensation for child care costs

Other parenting provisions:

- **Non-Removal of Child:** a court may make an order that a person not remove a child from a specified geographical area (s. 64 FLA)
- **Parentage:** governance for determining parentage in IVF and surrogacy arrangements (Part 3 FLA)
- Codified what had been an area of case law which developed out of necessity using the *parens patriae* and inherent jurisdictions of the Court.

Other parenting provisions:

Division 6 - Relocation

- “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 (1) a guardian or (2) one or more other persons having a significant role in the child’s life.”
- Requires 60 days written notice to all other guardians and persons having contact with the child (FLA s. 66)
- Other guardian can object by filing an application for an order to prohibit the relocation (FLA s. 68)
- If no application filed, relocating guardian can do so (FLA s. 68)
- If application filed (re: prohibit relocation), then various tests apply

Summary

Parents

Guardianship
(s. 39)
Automatic



Parenting
Arrangements
s. 40



Parenting
Responsibilities
s. 41



Parenting
Time
s. 42

Aunt Jean
The Ex-Boyfriend
Gramma Bev



Contact
s. 59 (no
legal rights)

Property Division: Part 5

- **Major** area of reform:
- The old FRA = community property regime
 - Family property/assets = all property “ordinarily used for a family purpose” (which included passive uses such as retirement planning) and that the claiming spouse had “contributed to” (including the household & child-raising duties which enable breadwinner to earn income & acquire property)
 - All family property/assets to be divided equally unless would be unfair to do so
 - Only applied to married couples

The New Model under the Family Law Act

- **New in FLA:** Extends to common law couples
- Parties still have equal entitlement to “family property” on separation (FLA s. 81)
- **New in FLA:** Now inclusion of “family debt” and equal responsibility as default (FLA s. 81)
- **New in FLA:** “Significantly Unfair” test for unequal division (reapportionment); based on enumerated circumstances (FLA s. 95)
- **New in FLA:** Definition of family property (use & contribution are largely irrelevant)
- **New in FLA:** “Excluded Property” (includes property brought into the relationship by one party, inheritances received during the marriage or marriage-like relationship, and gifts received from third parties) (FLA s. 85); limited exceptions (FLA s. 96)
- **New in FLA:** All property except excluded property, but including the increase in value of otherwise excluded property, is divisible.

Operation in the Real World

	Jane	Jill
Date of marriage	\$100K Equity in Her House	
	10 Years Paying Into Her Pension	\$65K RRSP's
	Scooter (worth \$5K)	\$2,500 in Savings
Date of separation (10 years later)	\$175K in Equity in House	
	Now, 20 Years Paying into Her Pension	\$125K RRSP's
	Scooter (Now Vintage worth \$10K)	\$15,000 in Savings
They Share:	\$75K Increase in the House	\$60K Increase in the RRSP's
	The 10 Years of the Pension	\$12,500 Increase in Savings
	The 5K Increase in the Scooter	

Other property sections of note:

- **Valuation of family property:** usual rule = fair market value at date of agreement or court hearing (FLA s. 87)
- **Pension division:** fine-tuning of old FRA
- **Interim Orders:**
- **Exclusive occupancy:** gives one party the right to stay in the family home to the exclusion of the other where it would be “impossible” for them to remain under the same roof. Often cited when separation tension is affecting children or family violence is present (FLA s. 90).
- **Financial restraining order** against disposal or transfer of property. Preserves the property, especially in cases where there is an information imbalance between the parties; often made without notice. (FLA s. 91)
- **New in FLA: Interim distribution of property:** to fund family dispute resolution, all/part of the lawsuit, or obtaining information/evidence (FLA s. 89)
- **New in FLA: Interim orders re: residence:** payment of expenses (rent, mortgage, taxes, insurance & other); prohibit party from terminating utilities; & supervised removal of belongings (FLA s. 226)

Child and Spousal Support



Child Support

- Child support is comprised of two components: table support and the sharing of special/extraordinary expenses.
- Special expenses (s. 7 expenses) are generally academic, medical/dental or childcare costs (if needed to facilitate employment).
- Child support is available in British Columbia through the combined application the *Federal Child Support Guidelines* (FCSG) and either the FLA or the *Divorce Act*.
- FCSG are used to determine the appropriate incomes to be used to calculate support
- The FLA and DA are then used, once the amount of support is determined, to obtain agreements or orders for payment.

The Real World:

Step 1:

Determine Income Under CSG,
ss. 15 – 20



Step 2:

Determine Monthly Amount Using
the Tables



Step 3:

Determine Special Expenses to
be Shared

Seek Order Under
FLA or DA

FLA

OR

DA

= Child Support

Step 1: Determining Income

- **Starting point:** Line 150 (total income) from T1 general (personal tax return) (FCSG s.16)
- **Consider eligible deductions:** Schedule C of FCSG
- **Consider 3 year average:** If the person's income fluctuates wildly, consider using a three-year average. (FCSG s.16)
- **Consider whether payor incorporated:** If money kept in personal corporation only for tax planning, money can be used for support purposes. (FCSG s.18)
- **Consider underemployment:** Impute additional income if the person is aggressive with writing off expenses, is unemployed or underemployed (with no good reason) (FCSG s.19)
- **Consider tax status:** if the payor is exempt from paying federal or prov. tax, then income to be grossed up
- **NOTE:** Section 150 the FLA says you must use the CSG.

Step 2: The Tables

British Columbia / Colombie-Britannique

Federal Child Support Amounts: Simplified Tables

Montants fédéraux de pensions alimentaires pour enfants: Tables simplifiées

Income/ Revenu (\$)	Monthly Award/ Paie ment mensuel (\$)				Income/ Revenu (\$)	Monthly Award/ Paie ment mensuel (\$)				Income/ Revenu (\$)	Monthly Award/ Paie ment mensuel (\$)				Income/ Revenu (\$)	Monthly Award/ Paie ment mensuel (\$)			
	No. of Children/ N ^{bre} d'enfants					No. of Children/ N ^{bre} d'enfants					No. of Children/ N ^{bre} d'enfants					No. of Children/ N ^{bre} d'enfants			
	1	2	3	4		1	2	3	4		1	2	3	4		1	2	3	4
10820	5	16	17	19	16200	119	263	283	304	21600	187	345	472	533	27000	239	420	571	694
10900	6	20	22	24	16300	120	266	287	308	21700	188	346	474	537	27100	240	421	573	696
11000	24	71	76	82	16400	122	269	291	312	21800	189	348	476	541	27200	241	422	574	698
11100	26	76	81	88	16500	124	272	294	315	21900	189	349	477	546	27300	242	424	576	700
11200	28	80	86	93	16600	126	275	298	319	22000	190	350	479	550	27400	243	425	577	702
11300	29	85	91	99	16700	128	278	302	323	22100	191	351	481	554	27500	244	426	579	704
11400	31	90	96	104	16800	129	280	305	327	22200	192	353	483	559	27600	245	427	580	706
11500	33	95	101	110	16900	131	283	309	331	22300	193	354	484	563	27700	246	428	582	708
11600	35	99	107	115	17000	133	286	313	335	22400	193	355	486	567	27800	247	430	583	710
11700	37	104	112	121	17100	135	287	317	339	22500	194	357	488	572	27900	248	431	585	712
11800	39	109	117	126	17200	137	288	320	343	22600	195	358	490	576	28000	249	432	586	714
11900	40	114	122	132	17300	139	289	324	347	22700	196	360	492	581	28100	250	434	588	716
12000	42	118	127	137	17400	140	290	327	351	22800	197	361	494	585	28200	251	435	589	718
12100	44	122	131	141	17500	142	290	331	354	22900	198	362	495	589	28300	252	437	591	720
12200	46	125	135	145	17600	144	291	335	358	23000	198	364	497	594	28400	253	438	592	722
12300	47	129	139	149	17700	146	292	338	362	23100	199	365	499	597	28500	254	440	594	724
12400	49	132	142	153	17800	148	293	342	366	23200	200	367	501	601	28600	255	441	595	726
12500	51	136	146	157	17900	150	294	346	370	23300	201	368	502	604	28700	256	443	597	728
12600	53	139	150	161	18000	152	295	349	374	23400	201	369	504	607	28800	257	445	598	730
12700	55	143	154	165	18100	153	296	353	378	23500	202	371	506	611	28900	258	446	600	732
12800	56	147	158	169	18200	155	298	357	383	23600	203	372	508	614	29000	259	448	602	734
12900	58	150	162	173	18300	156	299	362	387	23700	204	373	510	617	29100	260	450	604	736
13000	60	154	166	177	18400	158	300	366	392	23800	205	375	512	621	29200	261	451	605	738
13100	62	158	170	181	18500	159	302	370	396	23900	206	376	513	624	29300	262	453	607	740
13200	64	161	173	185	18600	161	303	374	401	24000	206	377	515	627	29400	263	454	609	742

Step 3: Determine Special Expenses

- The usuals:
 - Daycare, preschool or after-school care which is needed to facilitate employment (not going out for lunch with friends);
 - Medical, dental, ortho, optical, drugs, net of coverage;
 - Academic costs;
 - Sometimes extra-curricular activities (must meet test of being special or extraordinary)
- These can be shared between the parties (are not covered by child support) either in proportion to the parties' incomes or some other fashion.
- Based on family resources.
- Make sure language is clear for enforcement by Family Maintenance Enforcement Program if necessary.

Who Pays Who?

- **Parent with children >60%:** The other parent pays table amount of support on their income regardless of the recipient's income and parents share special expenses (usually proportional to income).
- **If neither party has children >60%** (ie: parents share children between **40/60 and 50/50** there is a set-off (CSG S. 9). IE: if parent A would pay \$1,000 to the other, and parent B would in turn pay \$500, the net amount from A to B is \$500.
- 2 payments required (rather than set-off) if both parties to be eligible for some tax deductions, benefits and credits

How to Make It Happen: S. 149 FLA

- **Who can request child support?** child's parent or guardian or the child or a person acting on behalf of child (s. 149 FLA)
- **Who has a duty to pay child support?** child's parent or guardian, includes stepparent (but primary support responsibility lies with biological parent) (FLA s. 149)
- Priority of duty to pay child support over spousal support (s. 173 FLA)
- Make sure the order or agreement is clear re: special or extraordinary expenses for enforcement by the Family Maintenance Enforcement Program if necessary

Spousal Support

- Spousal support is awarded to a spouse on the basis of one or more of three principled legal bases:
 - Contractual: (i.e. a marriage agreement or cohabitation agreement);
 - Non-compensatory: (sheer need of the recipient with a payor with a corresponding ability to pay); and
 - Compensatory: to compensate a spouse for the roles played during the marriage and which has resulted in economic disadvantage on the breakdown of the relationship.

The FLA: ss. 160 - 165

- **S. 160:** There is a duty to provide support to an entitled spouse.
- **S. 161:** The objectives of spousal support (next slide).
- **S. 162:** Determining quantum of spousal support (mostly impacted by length of relationship) .
- **S. 163 – 164:** Deals with agreements.
- **S. 165:** The section conferring the Court with authority to make spousal support orders.

Objectives

161 In determining entitlement to spousal support, the parties to an agreement or the court must consider the following objectives:

(a) to recognize any economic advantages or disadvantages to the spouses arising from the relationship between the spouses or the breakdown of that relationship;

(b) to apportion between the spouses any financial consequences arising from the care of their child, beyond the duty to provide support for the child;

(c) to relieve any economic hardship of the spouses arising from the breakdown of the relationship between the spouses;

(d) as far as practicable, to promote the economic self-sufficiency of each spouse within a reasonable period of time.

Calculating Spousal Support

- Income calculated same way as child support (manner prescribed by Federal Child Support Guidelines)
- Spousal Support Advisory Guidelines:
- Non-binding
- two formulas (one for parties with children, one for parties without children)
- Provide range, then discussion re: what figure appropriate
- DivorceMate

The screenshot displays the DivorceMate Software interface for calculating spousal support. It includes input fields for both parties, a table for child support guidelines, and a section for spousal support advisory guidelines.

DIVORCEMATE SOFTWARE Tools Cloud
Flintstone: Calculation 1
[View calculation description here](#)

Calculation Input		Annual \$		
Fred Male, 32, Resident of AE				
Income				
Employment income		85,600		
Wilma Female, 33, Resident of AE				
Income				
Employment income		38,080		
Children	Age	Lives with	Table Amt	Claimed by
Pebbles	16	Wilma	Yes	Wilma

Child Support Guidelines (CSG)		
	Fred	Wilma
Annual Guidelines Income	85,600	38,080
CSG Table Amount	739	0
Child Support (Table)	739	0

Spousal Support Advisory Guidelines		Monthly
Length of marriage/cohabitation: 0 years		
Recipient's age at separation: 0 years		
'With Child Support' Formula		
Low	Mid	High

Part 9: Protection from Family Violence

- Section 183 provides for “protection orders” and which can be sought either with or without notice.
- They are serious orders that are made where the Court concludes that family violence is likely to occur to an at-risk family member (including a child).
- Linked to the *Criminal Code of Canada* such that a breach of a family law protection order gives rise to the possibility of criminal prosecution. This is a significant, major step-up from the restraining tools available under the FRA and *Rules of Court*.
- More detail in later presentation

Part 10 - Court Processes:

- **IMPORTANT LIMITATION PERIODS:**
- **Limitation period for married couples** to seek division of property or debt, division of pension or spousal support – **2 years from judgment granting a divorce or declaration of nullity** (s. 198 FLA)
- **Limitation period for spouses living in marriage-like relationship** to seek division of property or debt, division of pension or spousal support – **2 years from date of separation** (s. 198 FLA)
- **Exception:** suspended during any period in which persons are engaged in family dispute resolution with a family dispute resolution professional.

Court Processes: Children's Rights

- Children over the age of 16 can start or defend their own court proceedings without the need for a litigation guardian (s. 201 FLA)
- Court has wide discretion over the manner in which a child's evidence will be heard or received (s. 202 FLA)
- Child can be appointed their own lawyer by the Court, including where the conflict is so severe that no one has objectivity (s. 203 FLA)

See: *K. (N.) v. H. (A.)*, 2016 BCSC 744

Court Processes – Reports / Views of Child:

- Under Section 211, the Court can order an enquiry into any aspect of a child's best interests, including their needs and the ability of their caregivers to meet those needs.
- This section can also be used for views of the child reports, allowing for the evidence of a child to be acquired without the need for the child's direct participation.

Court Processes – Disclosure:

- Disclosure is the cancer of matrimonial litigation: Justice Fraser in *Cunha*.
- In reply to this, sections 212 and 213 provide the Court with the ability to award heavy costs and fines (up to \$5,000) for parties who fail to meet their disclosure obligations.

Court Processes - Conduct Orders

- **Purposes of conduct orders:**
- To facilitate settlement
- To manage behaviours
- To prevent misuse of court process
- To facilitate arrangements pending final resolution

- **Consequences of breaching conduct order**, the Court can:
- award costs or fine party up to \$5,000 (ss. 228 & 230 FLA)
- make another conduct order against party (s. 228 FLA)
- draw an adverse inference against party (s. 228 FLA)
- consider whether protection order is appropriate (s. 228 FLA)
- order jail time (up to 30 days) (s. 231 FLA)

Court Processes - Conduct Orders (cont.)

- **Types of conduct orders:** Court can:
- find misuse of court process; prohibit party from making further applications or continuing with proceeding without leave; lower standard than under the *Supreme Court Act* (s. 221 FLA)
- manage court proceeding however necessary (s. 223 FLA)
- order parties into ADR, counseling or specialized services (ie: parenting class, anger management) (s. 224 FLA)
- order restrictions on communications between parties (s. 225 FLA)
- order that a person maintain mortgage, rent or utilities payments (s. 226 FLA)
- order a party to do, or not do, pretty much anything to manage behaviours that might frustrate resolution (s. 227 FLA)

Court Processes - Conduct Order Cases:

- Orders that parties do not drink or do drugs when parenting children:

Stevenson v. Nivala, 2015 BCSC 892

- Orders that a party not harass the new romantic interest of the other:

B. (J.R.) v. F. (J.H.), 2015 BCPC 70

- Addressing alienation behavior:

G. (N.R.) v. G. (G.R.), 2015 BCSC 1062 (para. 288)

On-line Resources:

- Legal Services Society Family Law in BC:
<http://www.familylaw.lss.bc.ca/>
- JP Boyd on Family Law:
wiki.clicklaw.bc.ca/index.php?title=JP_Boyd_on_Family_Law
- Clicklaw re: family law:
www.clicklaw.bc.ca/global/search?f=Family+law
- BC Supreme & Provincial Court resources for lay-litigants:
www.courts.gov.bc.ca/supreme_court/self-represented_litigants/
www.provincialcourt.bc.ca/types-of-cases/family-matters/links

Overview of LSS Intake Services



February 2018

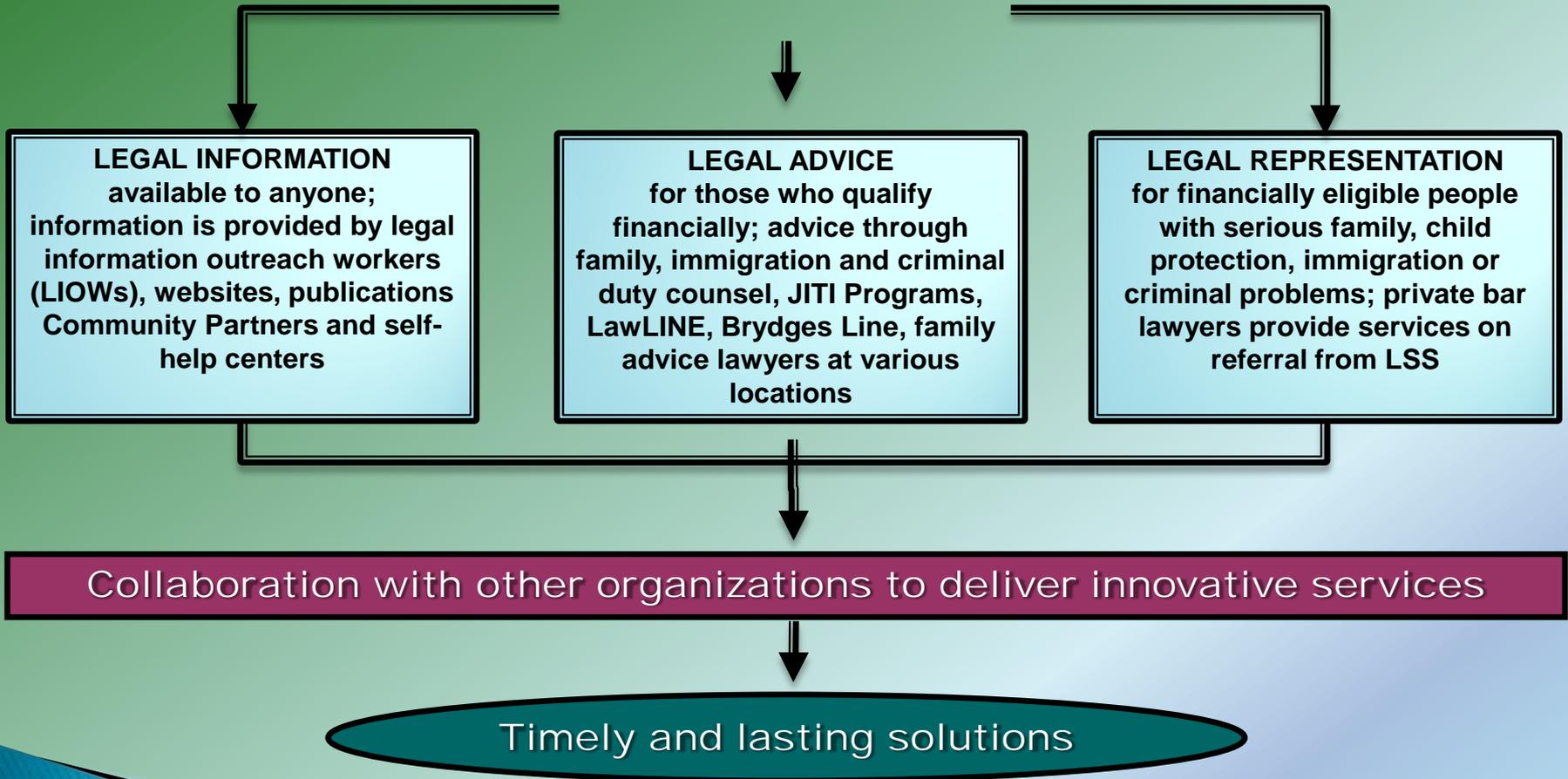
Silvia, Senior Legal Information Outreach Worker

Our Clients



Services Overview

Legal Aid



Legal Information

Legal Information
Outreach Worker

Aboriginal Community
Legal Worker



Community Partners

Community partners are available in 27 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.
- Where to find a location?

www.legalaid.bc.ca



Community Partner

**Laichwiltach Family Life
Society**

441 – 4th Avenue

Campbell River, BC

250-286-3430

or

500 Trumpeter Drive

Gold River, BC

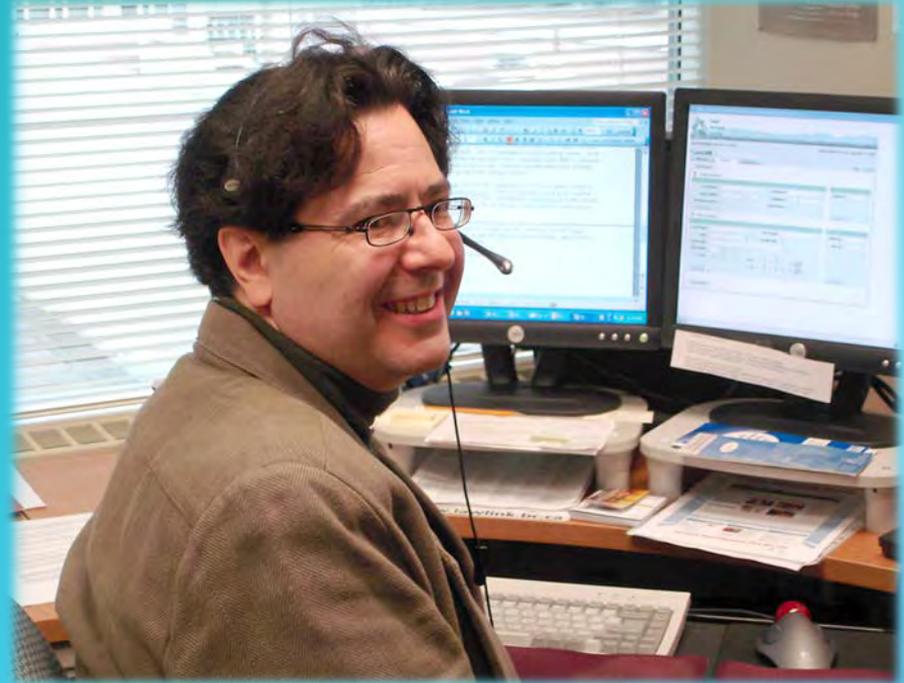
1-250-283-7161



Legal Advice



Duty Counsel



Family LawLINE

Duty Counsel

Duty Counsel provides legal advice in the following areas of law:

- **Immigration Law (if in detention)**
- **Family law**
(extended services)
- **Child Protection**
(CFCSA)
- **Criminal**
- **Aboriginal Law**
(First Nations Courts)



Family LawLINE (Enhancement)

- Brief next-step telephone advice for people representing themselves
- Can set up phone appointments
- Help with preparation and review of legal documents, and coaching
- Up to 6 hours of help from the same lawyer for each current legal matter



Applying For Legal Aid

Call LSS Provincial Call Centre at 604-408-2172 in Greater Vancouver or 1-866-577-2525 (no charge)

Come into one of our Legal Aid offices, their contact information is available on our website:

www.legalaid.bc.ca



Clients applying for immigration matters can call the LSS Immigration Line at 604-601-6076 or 1-888-601-6076 (no charge)

Legal Aid Offices

There are 34 communities in BC where someone can apply for legal aid and get legal information.



Legal Aid Offices

Doug Marion, Barrister & Solicitor
101 – 300 St. Ann's Road
Campbell River, 250-287-9521

Doug Marion, Barrister & Solicitor
1625B McPhee Avenue
Courtenay, 250-897-1400

Charles H. Beckingham, Barrister &
Solicitor c/o Beckingham and Company
5029 Argyle Street
Port Alberni, 250-724-5137

www.legalaid.bc.ca



Who Qualifies for Legal Aid?

A client qualifies for legal aid when:

- The legal problem is covered by LSS; and
- The client meets LSS financial guidelines



What Legal Problems Are Eligible For Coverage?

Criminal – Where charges are serious and there is a likelihood of jail.



Family Law - Serious family situations regarding parenting (guardianship, parenting arrangements or custody/access), protection orders, child support and more depending on the issues. The issues need to be addressed immediately to ensure the safety of the children and/or the client.



Child Removal - Where the Ministry of Children and Family Development or a Designated Agency has removed a child or where there is a risk or threat of a child being removed. This could also include custody and/or access issues arising from a child in care.



Reciprocals - Where the client's legal matter may be in another province. This generally encompasses family legal aid problems where the other party resides in another province or the client resides in another province. However, on occasion criminal and immigration cases have gone through the reciprocals process as well.



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

Household Size	Monthly Net Income
1	\$1,550
2	\$2,160
3	\$2,780
4	\$3,400
5	\$4,020
6	\$4,640
more	\$5,250



Financial Eligibility

LEGAL ADVICE GUIDELINES

Household Size Monthly Net Income

1 - 4	\$3,400
5	\$4,030
6	\$4,670
more	\$5,280



Financial Eligibility

Personal Property (All case types)

Household Size

1

2

3

4

5

6 or more

Exemption

\$2,000

\$4,000

\$4,500

\$5,000

\$5,500

\$6,000



FINANCIAL DISCRETIONARY COVERAGE

Legal Representation – Criminal, Family, CFCSA, Immigration, and Appeal Cases

- If an applicant is over the financial eligibility guidelines, by approximately \$100 – \$200 on income or \$500 on assets, and the matter is a serious and complex case, and there is available budget, it can be sent for discretionary coverage review



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:

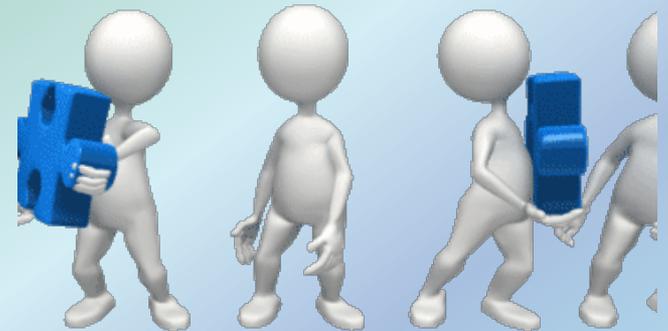
Provincial Supervisor
Vancouver Regional Centre
400 – 510 Burrard Street
Vancouver, BC V6C 3A8
Fax: 604-682-0787



Working Together

You can help your clients:

- Understand the intake process
- Prepare for the interview
- Organize documentation
- Make sure they follow up and provide intake with requested information



Provincial Supervisor, Legal Aid Applications

Deneen

Phone: 604-601-6217

Fax: 604-682-0787

E-Mail: deneen.vancouver@lss.bc.ca

Senior Legal Information Outreach Worker

Silvia

Phone: 604-601-6084

E-mail: silvia.Vancouver@lss.bc.ca



◆ Críminál Procedure
Rights Upon Arrest

Presentation by Raymond D. Phillips, QC
Presented at the conference by Dennis Evans

What if I am stopped by the police?

Police officers can stop you under three general circumstances:

- If they suspect that you have committed a crime
- If they see you committing a crime
- If you are driving

If the police do not arrest you or if they do not have grounds to detain you, they must let you be on your way

Police Stop While Driving

The police can stop cars at any time to determine if a driver has consumed alcohol or drugs, to see whether a car is mechanically fit, to check whether a driver has a valid licence, or to make sure a driver has insurance.

- ♦ The police may also stop your car if they suspect that you have committed a driving offence.
- ♦ The police are only allowed to search your car if they have reasonable and probable grounds to believe that there are illegal drugs or alcohol or evidence relating to the commission of a crime in the car.

When can the police search me?

In most cases, the police can only search you only if you have been placed under arrest or if you have consented to the search. However, there are exceptions. These include:

- If the police find you in a place where they are searching for drugs, and they have reason to believe that you have drugs.
- The police find you in a vehicle where people are transporting or drinking alcohol illegally, and they believe that you have alcohol.
- The police believe that you have an illegal weapon or one that was used to commit a crime, and suspect that it might be removed or destroyed in the time it would take to get a search warrant.

Police Entering Your Home

There are a number of circumstances in which the police are allowed to enter your home. These include:

- The police have a warrant to enter your home to arrest someone
- The police have a search warrant
- The police have permission from you or someone else in authority in your home
- There are urgent circumstances that require the police to enter your home

The police may also enter your home if they suspect that a crime has been committed in relation to property in your home

Police can enter your home in urgent circumstances

- ◆ The police can enter your home without your permission in the following urgent circumstances:
 - A 911 call has been made from your home, and the police believe that entry is necessary to prevent death or serious injury.
 - Where the police believe that someone in the home is in need of emergency services.
 - To help someone who has reported a domestic assault to safely remove their belongings.
 - To protect people from injury if the police suspect that there is a drug laboratory in the home.

Rights on Arrest

- ◆ At the time of arrest, an officer must typically inform the accused of the following and confirm that they understand:
 1. inform of reason for arrest
 2. Charter of Rights caution / Right to Silence
 3. right to speak to a lawyer
 4. access to legal aid
 5. secondary police cautions



Informed of Arrest

- ◆ Section 10(a) of the Charter entitles all people "the right on arrest or detention ... to be informed promptly of the reasons therefore". It is generally expected that the arresting officer, upon making the arrest, will inform the person of the reason for the arrest. However, where the reason is obvious and the person is well aware of the reason, it is not necessary.
- ◆ It is not necessary to always inform the accused of the circumstances of the offence. In a murder case it is not necessary to reveal the victim's identity.

The Script

- ◆ I am arresting you for [name of offence(s)]. You have the right to retain and instruct counsel without delay. You also have the right to free and immediate legal advice from duty counsel by making free telephone calls to [toll-free phone number(s)] during business hours and [toll-free phone number(s)] during non-business hours.
- ◆ Do you understand?
- ◆ Do you wish to call a lawyer?
- ◆ You also have the right to apply for legal assistance through the provincial legal aid program.

Do you understand?

Right to Silence

Upon arrest the peace officer should inform the accused of their right to silence and right against self-crimination protected under section 7 and section 11(c) of the Charter.

- ◆ **POLICE WARNING:**

I wish to give you the following warning: You need not say anything. You have nothing to hope from any promise or favor and nothing to fear from any threat whether or not you say anything. Anything you do or say may be used as evidence.

- ◆ **Do you understand?**

FIREARMS

- ◆ On April 5, 2012, Bill C-19, the *Ending the Long-gun Registry Act*, came into effect. The key changes:
 - Removal of the requirement to register non-restricted firearms
 - Destruction of the existing non-restricted firearms registration records
 - Allowing the transferor of a non-restricted firearm to obtain confirmation of a transferee's firearms acquisition licence prior to the transfer being finalized

It is important to note that the new law **does not change the requirement for all individuals to hold a licence in order to possess a firearm.**



Fire Arms Prohibition

- ◆ A sentencing judge, before making a probation order must consider whether to impose a weapons prohibition order under s. 109 or 110.
- ◆ Section 109 is a mandatory prohibition applied where an offense is indictable, violence was used, threatened or attempted or where violence was against an intimate partner, a child or is someone who resides with the person or intimate partner

Firearms Prohibitions

- ◆ **s.109 Mandatory Prohibition 10 years**
- ◆ Sexual Assault, aggravated sexual assault, sexual assault causing bodily harm
- ◆ criminal harassment
- ◆ using firearms in offense
- ◆ drug trafficking
- ◆ using an imitation weapon in offense
- ◆ Prohibited for life on subsequent offense

Firearms Prohibitions

- ◆ Section 110 Discretionary Prohibition
- ◆ Summary offenses involving violence or threats and where weapon used.
- ◆ prohibited for up to 10 yrs.

Firearms Prohibitions

- ◆ Discretionary Prohibitions - Exemption
- ◆ **Lifting of prohibition order for sustenance or employment**
- ◆ the person needs a firearm or restricted weapon to hunt or trap in order to sustain the person or the person's family, or
- ◆ a prohibition order against the person would constitute a virtual prohibition against employment

Firearms Prohibitions

- ◆ **Factors:**
- ◆ A competent authority may make an order under subsection (1) only after taking the following factors into account:
 - a) criminal record, if any, of the person;
 - b) the nature and circumstances of the offence,
 - c) the safety of the person and of other persons.



Family Violence & Protection Orders under BC's *Family Law Act* (update 2018)

Shannon Aldinger
Family Law – Lawyer & Mediator
Courtenay, BC

A significant and necessary change

- The *Family Law Act* (the “FLA”) came into force on March 18, 2013.
- It replaced the former *Family Relations Act* (the “FRA”) in an effort to address the FRA’s shortcomings - including but not limited to the absence of any reference to family violence and meaningful remedies to address family violence.
- Key features in this regard include:
 - The inclusion of a broad & expansive definition of family violence;
 - Specific directives for legal professionals, judges and parties re: family violence;
 - Enhanced protection orders (Part 9 – Protection of Family Violence); and
 - Other remedies to address family violence interwoven throughout FLA

Definition of Family Violence

"family violence" includes

- (a) **physical abuse** of a family member, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm,
- (b) **sexual abuse** of a family member,
- (c) **attempts** to physically or sexually abuse a family member,
- (d) **psychological or emotional abuse** of a family member, including
 - (i) **intimidation, harassment, coercion or threats**, including threats respecting other persons, pets or property,
 - (ii) unreasonable restrictions on, or prevention of, a family member's **financial or personal autonomy**,
 - (iii) **stalking or following** of the family member, and
 - (iv) intentional **damage to property**, and
- (e) in the case of a child, direct or indirect exposure to family violence;

Definition of Family Violence (cont.)

- Does not include:
 - The use of reasonable force to protect oneself or others
 - A mere power imbalance

Judicial interpretation of Family Violence:

- The Court should take a “broad view of what constitutes family violence”: *B.(M.W.) v. B.(A.R.)*, 2013 BCSC 885
- Demeaning remarks, blaming parent to a child qualify as family violence: *L.(D.N.) v. S.(C.N.)*, 2014 BCSC 1417

Caselaw re: definition of family violence:

- Derogatory outbursts, demeaning comments qualify: *L.(D.N.) v. S.(C.N.)*, 2013 BCSC 809
- Threats with minimal physical contact qualify *L.(K.L.) v. J.(D.)*, 2014 BCPC 85
- Litigation abuse, failure to cooperate qualify, *B.(M.W.) v. B.(A.R.)*, 2013 BCSC 885
- Behaviour causing financial hardship and stress, threats to cause financial hardship qualify, *Hokhold v. Gerbrandt*, 2014 BCSC 1875
- Deliberate failure to pay child support intended to inflict emotional harm or control behaviour qualifies *P.(J.C.) v. B.(J.)*, 2013 BCPC 297

Duties of legal professionals (re: family violence):

- FLA requires all legal professionals – lawyers, judges, family justices counselors, mediators, arbitrators and parenting coordinators (FLA s. 8):
 - to assess for family violence and the extent to which it affects someone’s safety or ability to negotiate and
 - to discuss with parties how different family dispute resolution processes may or not be appropriate
- FLA requires all legal professionals to consider the impact of family violence when assessing the best interest of the child/ren (FLA s. 38)
- Courts are also required to conduct proceedings in a manner which “strives to minimize conflict between parties” and to “protect children and parties from family violence” (FLA s. 199)

Mandatory Consideration of Family Violence

If family violence found to be present (in relation to the best interests of child), a court **must** consider all of the following:

- (a) the nature and seriousness of the family violence;
- (b) how recently the family violence occurred;
- (c) the frequency of the family violence;
- (d) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at a family member;
- (e) whether the family violence was directed toward the child;
- (f) whether the child was exposed to family violence that was not directed toward the child;
- (g) the harm to the child's physical, psychological and emotional safety, security and well-being as a result of the family violence;
- (h) any steps the person responsible for the family violence has taken to prevent further family violence from occurring;
- (i) any other relevant matter.

Part 9 - Protection Orders

- Available Protection Orders (PO) include (s. 183(3) FLA):
 - Restricting communication
 - Restricting attendance at a residence, property, business, school or place of employment (use language including but not limited to > specific address)
 - Restricting following the at-risk family member
 - Restricting possession of weapons/firearms
 - Directing police officers to remove a family member from the home
 - Directing police officers to seize weapons/firearms

Who can seek a Protection Order?

- A family member at risk of violence, or another person on that person's behalf can apply for a Protection Order (FLA s. 183)
- PO can also be made on the court's own initiative
- "Family member" is broadly defined (s. 1) and includes:
 - person's spouse or former spouse
 - person with whom the person is living or has lived with in a marriage like relationship
 - parent or guardian of the person's child
 - a person who lives with and is related to person seeking the PO or against whom the PO is sought
 - person's child

How to apply for a Protection Order?

- Application for a PO can be brought as part of a family law proceeding or on a stand-alone basis (s.183(2) FLA)
- The application can be made without notice (s. 186 FLA)

Factors court must consider (re: PO)

- The court *must* consider at least the following factors (s. 184(1) FLA):
 - whether there is any history of family violence
 - whether the family violence is repetitive or escalating
 - whether any psychological or emotional abuse constitutes a pattern of coercive and controlling behaviour directed at the at-risk family member
 - presence of circumstances increasing the risk of family violence, such as substance abuse, financial problems, mental health issues and access to weapons
 - the at-risk family member's own perception of risks to his/her safety and
 - presence of circumstances increasing the vulnerability of a person, such as pregnancy, age, and economic dependence

If a child is a family member, court must also consider:

- Whether the child may be exposed to family violence if PO is not made; and
- Whether the PO should also be made to include the child if an order is made re: the child's parent or guardian

The Act also lists factors that do not restrict the availability of a PO (s. 184(4)), including:

- whether there was a previous PO or order restricting communication
- whether the person accused of family violence is still living in the family home, temporarily or otherwise

Factors that do not restrict the availability (cont)

- whether the person seeking the protection order is in an emergency shelter or safe place
- whether criminal charges have been laid against the person against whom the protection order is sought
- whether the at-risk family member has a history of returning to live with the person against whom PO sought,
- whether any other orders restricting contact/communication have already been made

Cross applications for POs:

If family members are seeking POs against each other, court must consider whether PO should be made against one person only, taking into account:

- (a) The history of, and potential for, family violence
- (b) The extent of any injuries or harm suffered, and
- (c) The respective vulnerability of the applicants.

Note: Malone v. Allar 2014 BCSC 1621: Protection order not to be reciprocal where no evidence of reciprocation needed

Enforcement of Protection Orders:

- POs (like all orders) take effect when the judge makes the order (not delayed to entry of order)
- FLA says POs can be enforced whether or not there is proof that the order has been served (s. 188)
 - but best to serve ASAP as don't know how RCMP approaching this section
- POs are enforced through the criminal justice system under s. 127 of the *Criminal Code* such that a breach of a PO will be a criminal offence

Other important points:

- POs expire after one year unless otherwise ordered (s. 183(4)) – ask for indefinite basis
- POs trump other orders
 - if there is an inconsistency between a PO and another order made under the FLA, then the order is suspended, to the extent of the conflict or inconsistency, until (a) either the order or the PO is varied in such a way that the conflict or inconsistency is eliminated: or (b) the PO is terminated (s. 189 (2))

Steps to take after PO granted:

- Make multiple copies and carry one on your person at all times and keep copies in other useful places (purse, glove compartment of car, work, night table/phone etc)
- Bring copy to RCMP
- Contact the protection order registry to confirm its registration

Child Protection Law in B.C.



AN OVERVIEW

Child Protection Overview



- Child protection legislation in British Columbia
 - ✦ *Child, Family and Community Service Act (CFCSA).*
 - ✦ Gives child protection social workers the authority to investigate reports of abuse or neglect and take appropriate action to ensure a child's safety
- If a child's safety is at risk, the Ministry of Children and Family Development (or an Aboriginal delegated agency) must look into it.
 - ✦ If necessary, the director must take the child from the home.

Terms



○ Parent

- ✦ Includes person to whom custody or guardianship of a child has been granted
- ✦ Includes a person with whom child lives and stands in the place of a parent/guardian

○ Director

- ✦ Minister designates Director of Child Protection, who delegates the provision of child protection services in B.C. to child protection social workers
- ✦ “Director” means a person designated by the Minister

Duty to Report



- *CFCSA*
 - ✦ S. 14 requires anyone who has reason to believe that a child needs protection *must* report the matter to MCFD
 - ✦ This applies even to confidential information
 - ✦ Only exception under the *Act* is information protected by solicitor-client privilege
 - ✦ It is an offence not to report (or to report false information)

When a Child Needs Protection



- S. 13 of the *CFCSA*
 - ✦ Has been or likely to be physically harmed;
 - ✦ Has been or likely to be sexually abused/exploited;
 - ✦ Physically harmed because of neglect;
 - ✦ Emotional harm, including witness to domestic violence;
 - Emotional harm defined as demonstration of severe anxiety, depression, withdrawal, self-destructive or aggressive behaviour
 - ✦ Deprived of necessary health care;
 - ✦ Unable/unwilling to care for child;
 - ✦ Deceased parent and no adequate provision made for care;
 - ✦ Abandonment
- Domestic violence
 - ✦ *CFCSA* says likelihood of physical harm to child increases where domestic violence in the home

Guiding Principles in Child Protection



○ S. 2 CFCSA

- ✦ children are entitled to be protected from abuse, neglect and harm or threat of harm
- ✦ family is the preferred environment for the care and upbringing of children
- ✦ responsibility for the protection of children rests primarily with parents
- ✦ services should be provided to parents to provide a safe and nurturing environment
- ✦ the child's views should be taken into account
- ✦ kinship ties are to be preserved if possible
- ✦ cultural identity of an aboriginal child should be preserved
- ✦ decisions relating to children should be made and implemented in a timely manner

When a Report is Made



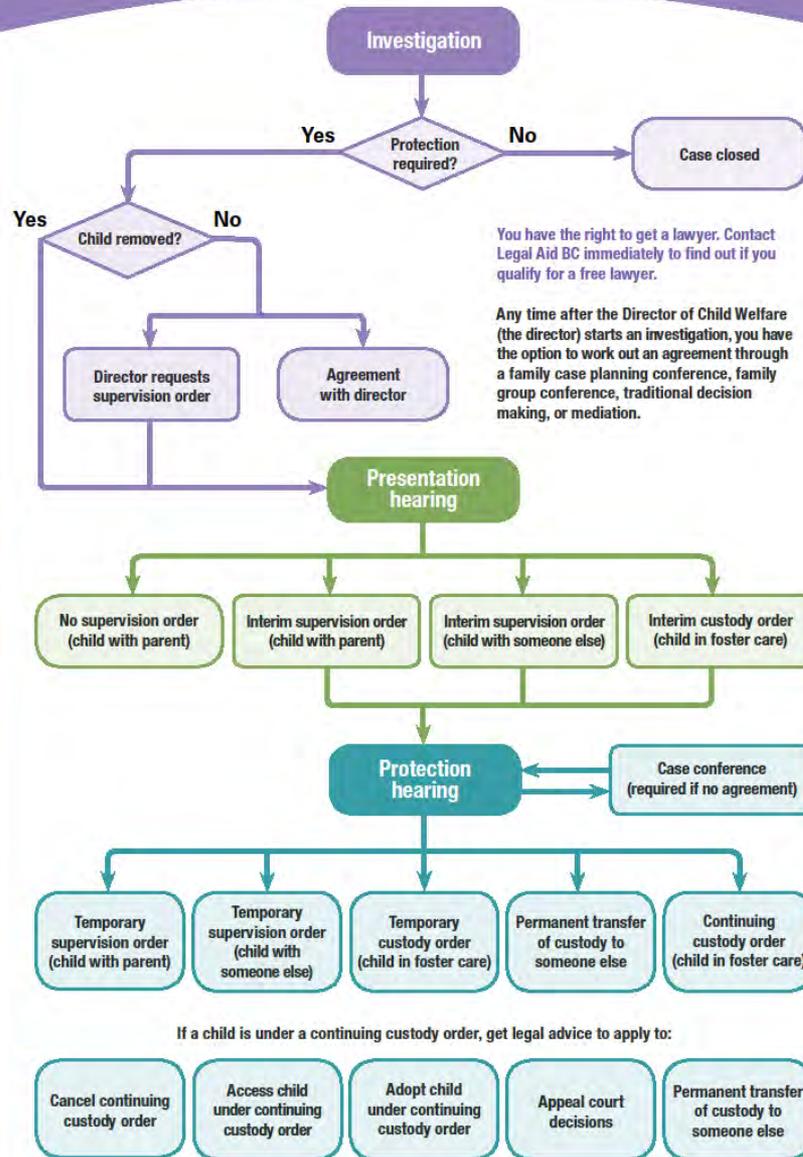
○ Who makes the report?

- ✦ Teachers, friends, childcare workers, neighbours, etc.
- ✦ The child's other parent
- ✦ The director cannot release the names of a person who reports child abuse. This is so people won't be afraid to tell the director when they think a child is being harmed

○ Who investigates?

- ✦ Child protection workers (social workers) investigate
- ✦ Sometimes people make false reports – the social worker looks at all available information
- ✦ Some Aboriginal communities have Aboriginal delegated agencies

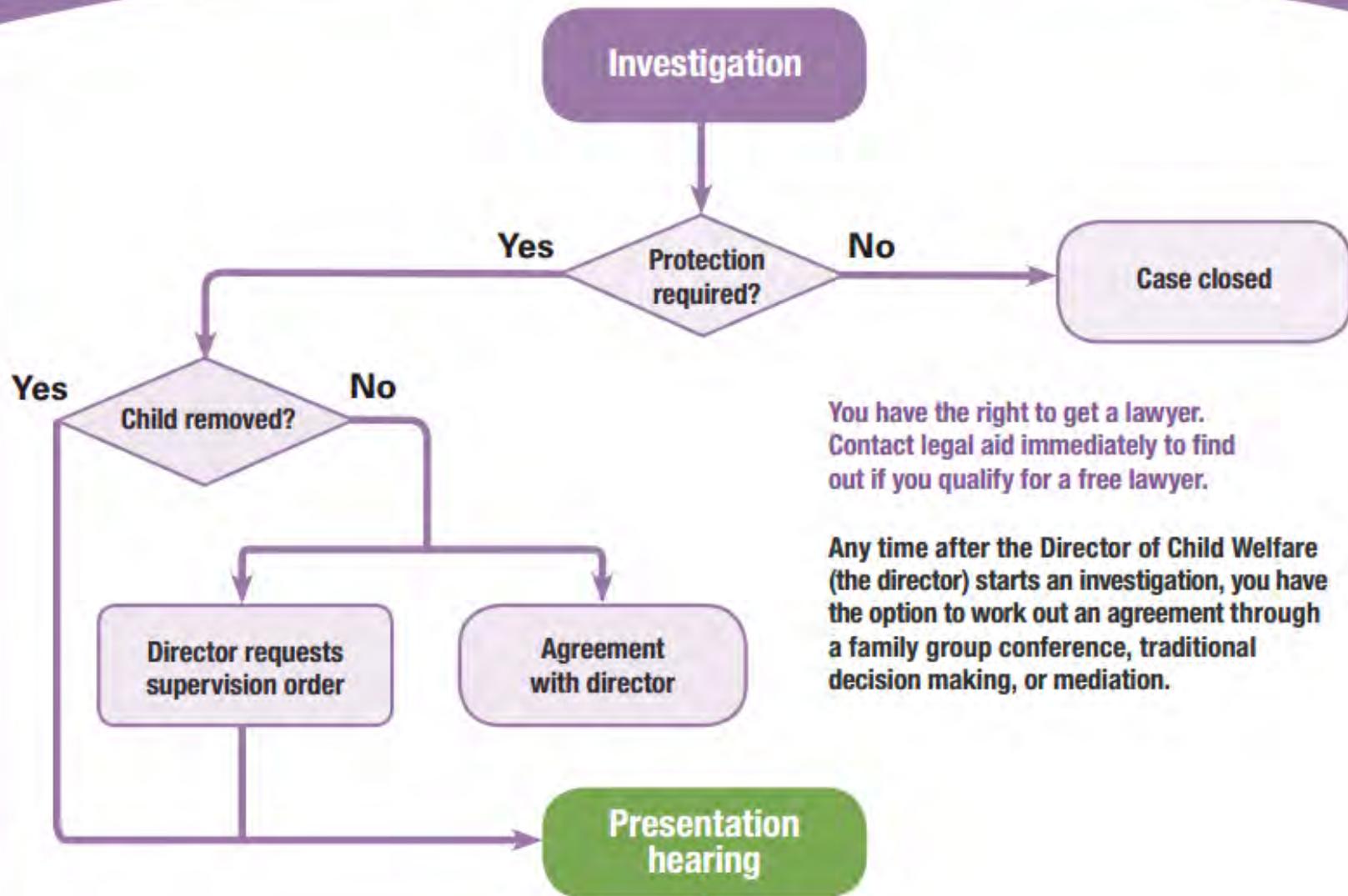
The Child Protection Process



You have the right to get a lawyer. Contact Legal Aid BC immediately to find out if you qualify for a free lawyer.

Any time after the Director of Child Welfare (the director) starts an investigation, you have the option to work out an agreement through a family case planning conference, family group conference, traditional decision making, or mediation.

The Child Protection Process in British Columbia



You have the right to get a lawyer. Contact legal aid immediately to find out if you qualify for a free lawyer.

Any time after the Director of Child Welfare (the director) starts an investigation, you have the option to work out an agreement through a family group conference, traditional decision making, or mediation.

Investigation



○ Social worker

- ✦ Makes assessment by asking questions and gathering information
- ✦ Some cases close after short assessment if child does not need protection
- ✦ Referral to services
 - Home support, counselling, parenting classes
- ✦ May speak with the child alone and with people who knows the child
- ✦ Parents should explain their views and work with Ministry from early stage to protect the child and make the situation better
- ✦ Child protection worker will decide:
 - If the child needs or does not need protection
 - If protection required, child may or may not be removed

Options After Investigation – Out of Court



- **No action taken**
 - ✦ **Can request a letter stating report unsubstantiated**

- **Support Services Offered/Agreement**
 - ✦ **Written agreement or offer of services**
 - ✦ **Counseling, in-home support, respite care, parenting programs, etc.**
 - ✦ **Social worker creates a plan with the parent to deal with issues putting child at risk**
 - ✦ **Up to 6 months – can be renewed**

Options After Investigation – Out of Court



○ Voluntary Care Agreement

- ✦ Places child in temporary care of MCFD with parent's agreement
- ✦ Voluntary transfer of parental authority
- ✦ Ends when parent asks for transfer of authority to end
- ✦ Allows for parent to attend treatment facility, hospital, etc.
- ✦ Up to 3 months (under 5), or 6 months – can be renewed but time limits

○ Extended Family Placement

- ✦ If parent has extended family or friends – Extended Family Placement possible
- ✦ Agreement can provide for MCFD to contribute to child's support
- ✦ Criminal records checks, reference checks, CFCSA record checks required

Options After Investigation - Court



- Required where Director has reasonable grounds to believe that:
 - ✦ Child needs protection, and
 - ✦ No other less disruptive measure is adequate to protect the child

- Director will seek either
 - ✦ Supervision Order
 - ✦ Custody Order

Options After Investigation - Court



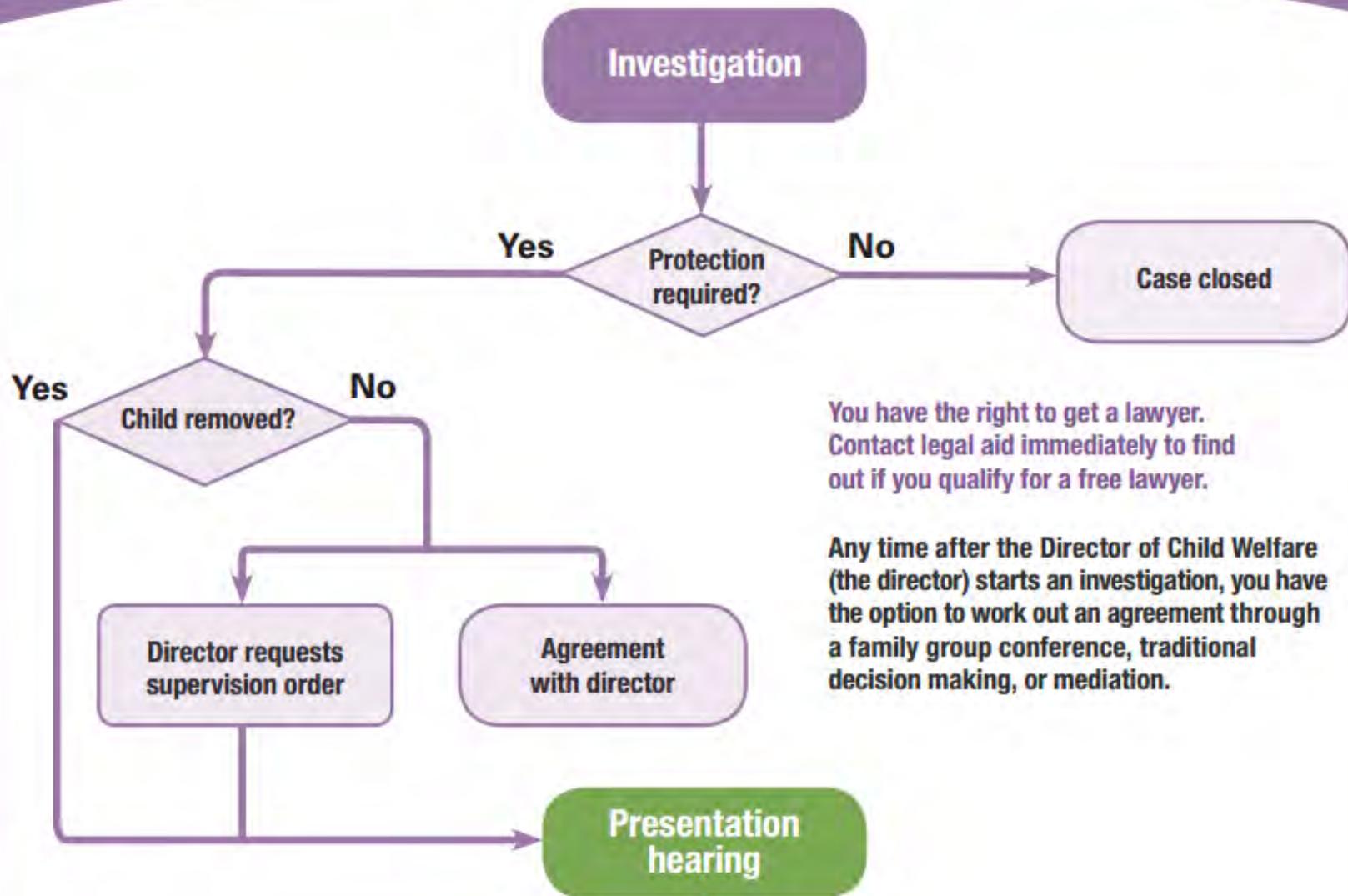
- Supervision Order – No Removal of Child
 - ✦ Child stays in parent's care under supervision of director
 - ✦ Presentation hearing held within 10 days of director making application
 - ✦ Terms of an Order will include things like
 - Parents must attend counseling
 - Child must attend school
 - Must allow access to home unannounced
 - No drugs or alcohol
 - Which terms **require** removal if breached
 - When Director **may** remove
 - ✦ Parents will usually consent – risk removal otherwise
 - ✦ If consent given, no need for judge to make a finding that child in need of protection

Options After Investigation - Court



- Removal of child - Custody Order
 - ✦ Director may remove child without a court order if necessary to protect child
 - ✦ Director has power to enter house, vehicle, etc. for this purpose
 - ✦ After removal, presentation hearing must be held within 7 days of removal
 - Custody order will typically include access provision for parents

The Child Protection Process in British Columbia



You have the right to get a lawyer. Contact legal aid immediately to find out if you qualify for a free lawyer.

Any time after the Director of Child Welfare (the director) starts an investigation, you have the option to work out an agreement through a family group conference, traditional decision making, or mediation.

Presentation Hearing



○ Notice

- ✦ The child, if over 12
- ✦ Parents
- ✦ Treaty first nation if child is a treaty first nation child
- ✦ If child is aboriginal, Indian Band child is registered with or entitled to be registered with

○ Report to Court

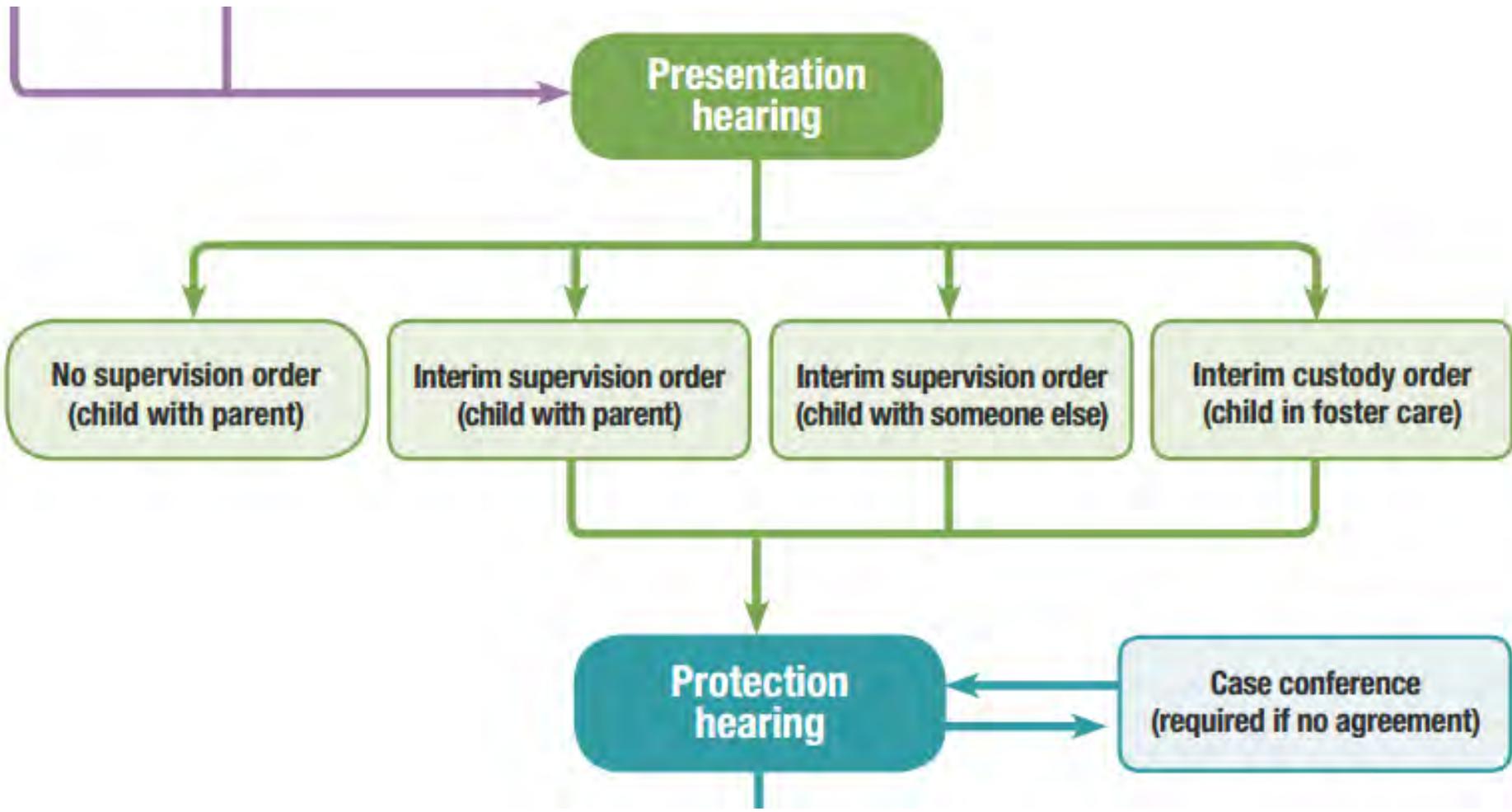
- ✦ Sets out circumstances of removal, if applicable
- ✦ Sets out reasons for child protection concerns
- ✦ Sets out interim plan for child's care

Presentation Hearing



- Summary in nature

- ✦ Evidentiary bar is low and evidence must be brief
 - Any admissible evidence which, if believed by judge, could lead to finding that child is in need of protection – Director should be granted interim custody
 - Hearsay is permitted
- ✦ Court will resolve conflicts in evidence in favour of the Director – findings of credibility left to protection hearing
- ✦ Designed to ensure child not arbitrarily taken into care
- ✦ Must be concluded as soon as possible
 - In practice, can take months to schedule due to lack of court time
- ✦ Protection proceedings supposed to be inquisitive in nature and not adversarial



Protection Hearing



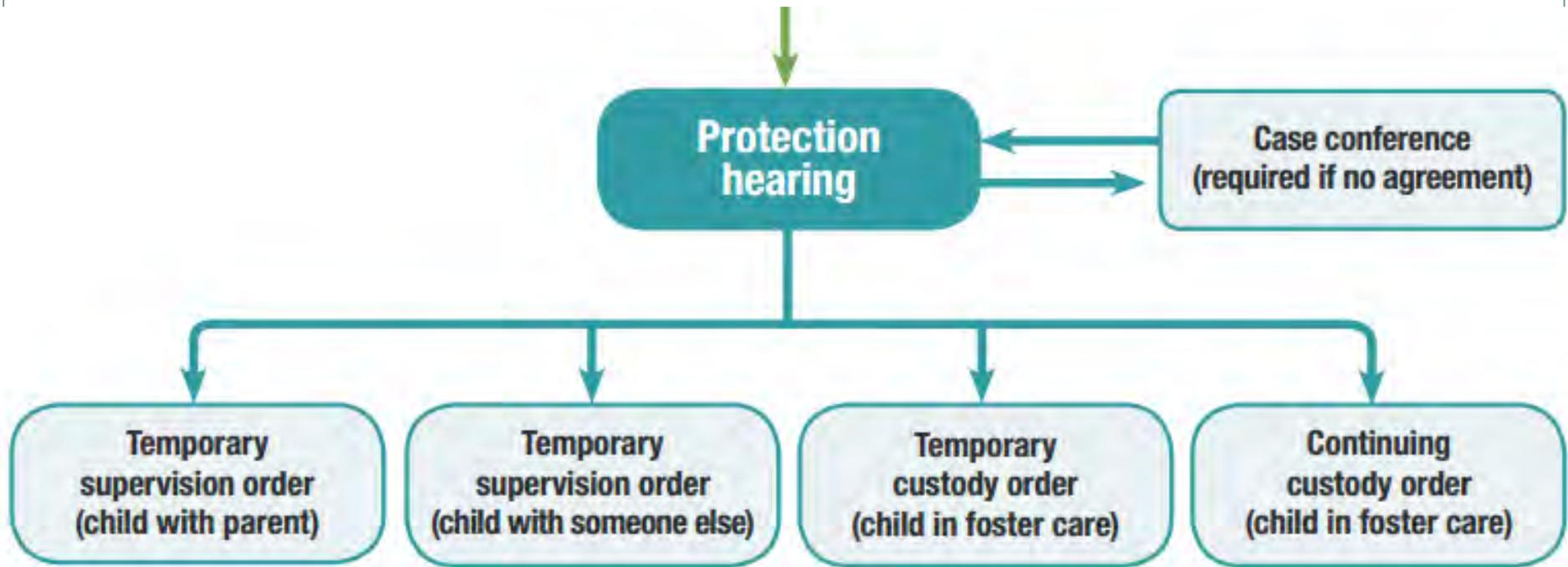
- **Timing**
 - ✦ Within 45 days after presentation hearing (commencement only)
 - ✦ In practice, takes months
 - ✦ 10 days of notice to those entitled

- **To consent or not to consent**
 - ✦ Consent may shorten the process
 - Typically 3-6 months, depending on age of child
 - If things go well, child will be returned under supervision order
 - ✦ No finding that child in need of protection
 - ✦ Cooperation with MCFD
 - ✦ If no consent – Family Case Conference

Protection Hearing



- The Hearing
 - ✦ Social Workers testify
 - ✦ Parents call witnesses
 - ✦ Each side tells judge why child in need of protection or not
 - ✦ Judge must decide
 - Whether child is in need of protection
 - If no
 - Director ordered to return child and any orders terminated
 - If yes
 - Consider plan of care
 - Order least intrusive measure



Protection Hearing



- Expiry of protection order
 - ✦ Child can only remain in care for so long without a more permanent order
 - ✦ Determined by age:
 - 1-4 years: 12 months
 - 5-11 years: 18 months
 - 12 years and over: 24 months
 - ✦ Time limits can be extended by court order

- S. 2 Guiding Principles
 - ✦ Decisions relating to children should be made and implemented in a timely manner

Continuing Custody Hearing



- Serious protection issues cannot be fixed within time allowed by the court
 - ✦ Director must apply 60 days before temporary custody order expires

- Effect of Continuing Custody Order
 - ✦ Child stays in Director's care for unknown length of time
 - ✦ Director becomes sole guardian and may consent to child's adoption
 - ✦ Ends when child
 - Turns 19
 - Is adopted
 - Marries
 - Is cancelled by court order
 - S. 54.1 transfer

Continuing Custody Order



- Access while CCO
 - ✦ Can sometimes retain access to child under CCO by way of court order

- Applying to cancel CCO
 - ✦ Director or party to proceeding may apply to cancel CCO if the circumstances that caused the court to make the order have changed significantly
 - ✦ Must first apply for permission to apply to cancel CCO – if permission granted, court will set date for a hearing
 - ✦ Court will consider importance of continuity in child's care
 - ✦ Will make order if circumstances have changed and order is in the child's best interests
 - ✦ No longer solely about protection at this point

S. 54 Transfers



- S. 54.01 Permanent Transfer of Custody before CCO
 - ✦ If child has been in care of person other than child's parent under temporary order/agreement for at least 6 months, Director may apply to have custody permanently transferred
 - ✦ Court may make order if no significant likelihood that
 - The circumstances leading to removal will improve within reasonable time
 - The parent will be able to meet the child's needs
 - ✦ Eligible for financial support from MCFD

S. 54 Transfers



- **S. 54.1 Permanent Transfer of Custody after CCO**

- ✦ **Similar to s. 54.01**
- ✦ **Director cannot apply for unless:**
 - CCO made by consent,
 - all time limits up, OR
 - all appeals regarding CCO heard and CCO upheld.

- **Effect of s. 54 transfers**

- ✦ **Person to whom custody transferred becomes guardian**
- ✦ **Not adoption – no effect on inheritance/succession rights**

Guardianship Option



- If s. 54 transfer not available or desirable
 - ✦ Relative who may not pass MCFD checks
 - ✦ Sometimes easiest to apply for guardianship under FLA
 - ✦ Work with social workers
 - ✦ Director will withdraw from proceeding once guardianship granted
 - ✦ Can have multiple guardians – allocation parental responsibilities is key for MCFD
 - ✦ No MCFD financial support

Options At Any Stage



- **Family Group Conferences**
 - ✦ Child's parents, relatives, close friends, community members, workers
 - ✦ Meet about how to keep child safe and move forward
 - ✦ Works well if supportive community – plan where child will live, what services parents require, how to support parents and child
 - ✦ Parents can ask for this option at any time

- **Traditional Decision Making**
 - ✦ Like a family group conference .
 - ✦ Includes the community.
 - ✦ Can invite Elders and other community members.
 - ✦ Lets the family make decisions based on cultural traditions and values if the child is Aboriginal.

Options at Any Stage



○ Mediation

- ✦ Mediation is an option of collaborative decision making
- ✦ The mediator works to help both sides listen to and understand each other and then together come up with a solution that feels fair
- ✦ Mediators aren't judges and they aren't supposed to take sides.
- ✦ S. 22 *CFCSA* - parents, children and child protection workers or anyone directly involved in a child protection case can ask for or suggest mediation. Both sides have to agree.
- ✦ Free
- ✦ Mediators
 - Neutral & cannot provide legal advice

Options at Any Stage



○ Family Case Conference

- ✦ Like mediation, except judge is in charge instead of mediator
- ✦ Meeting between parent, parent's lawyer, child protection worker, the director's lawyer, and the judge
- ✦ Others may attend at judge's discretion
- ✦ Representatives of the child's Aboriginal community may also be there
- ✦ Outcomes
 - Consent Order
 - Set matter for hearing
 - Further FCC

Options at Any Stage



○ Court Orders

- ✦ Access orders – interim or temporary custody
 - If MCFD not providing access or adequate access
 - If parent with custody applies – must be given access unless not in child’s best interests
 - If another person applies – may be given access unless not in child’s best interests
- ✦ Access orders – continuing custody
 - Court may order access to any person if in child’s best interests, is consistent with plan of care, and is consistent with child’s wishes (over 12)

Aboriginal Children under the *CFCSA*



○ Definition

- ✦ Registered under *Indian Act*
- ✦ Biological parent registered under *Indian Act*
- ✦ Nisga'a child
- ✦ Treaty first nation child
- ✦ Child under 12 with a parent with biological ancestry/identifies
- ✦ Child over 12 who identifies as aboriginal

○ S. 2 Guiding Principles

- ✦ Cultural identity of aboriginal children should be preserved

Aboriginal Children



○ S. 3 Service Delivery Principles

- ✦ Aboriginal people should be involved in the planning and delivery of services to aboriginal families and their children
- ✦ Services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving services

○ S. 4 Best Interest of the child

- ✦ If the child is an aboriginal child, the importance of preserving the child's cultural identity must be considered in determining the child's best interests

Aboriginal Children



- S. 71 Out-of-home living arrangements
 - ✦ If child is aboriginal, director must give priority as follows:
 - 1) extended family or within child's aboriginal community;
 - 2) with another aboriginal family;
 - 3) in a location where child can maintain contact with friends and relatives, in the same family as siblings, in location where child can continue at same school.

How to Help



- Assist client in obtaining legal aid
 - ✦ MCFD does not have to have removed child – risk of removal is enough to qualify
 - ✦ Income must be below a certain level

- If client denied legal aid and is refused again after a review
 - ✦ Can ask a judge to appoint a lawyer
 - ✦ Called a “JG” application – application can be made at any time in court process
 - ✦ Speak with family duty counsel
 - ✦ Online guide by LSS
 - “How to Get a Court-Appointed Lawyer for Your Child Protection Case”
 - ✦ Application for an Order plus Affidavit required.

How to Help



- Assist client in repairing relationship with MCFD
 - ✦ Cooperation can grease the wheels – often faster than court

- Advocate for client with MCFD/Service providers
 - ✦ Lawyers not always in best position to advocate for client

- Assist with services
 - ✦ MCFD not always able to coordinate services
 - ✦ Important for court hearings

- Make a complaint to the Representative for Children and Youth
 - ✦ Special interest in children and youth in care and indigenous youth

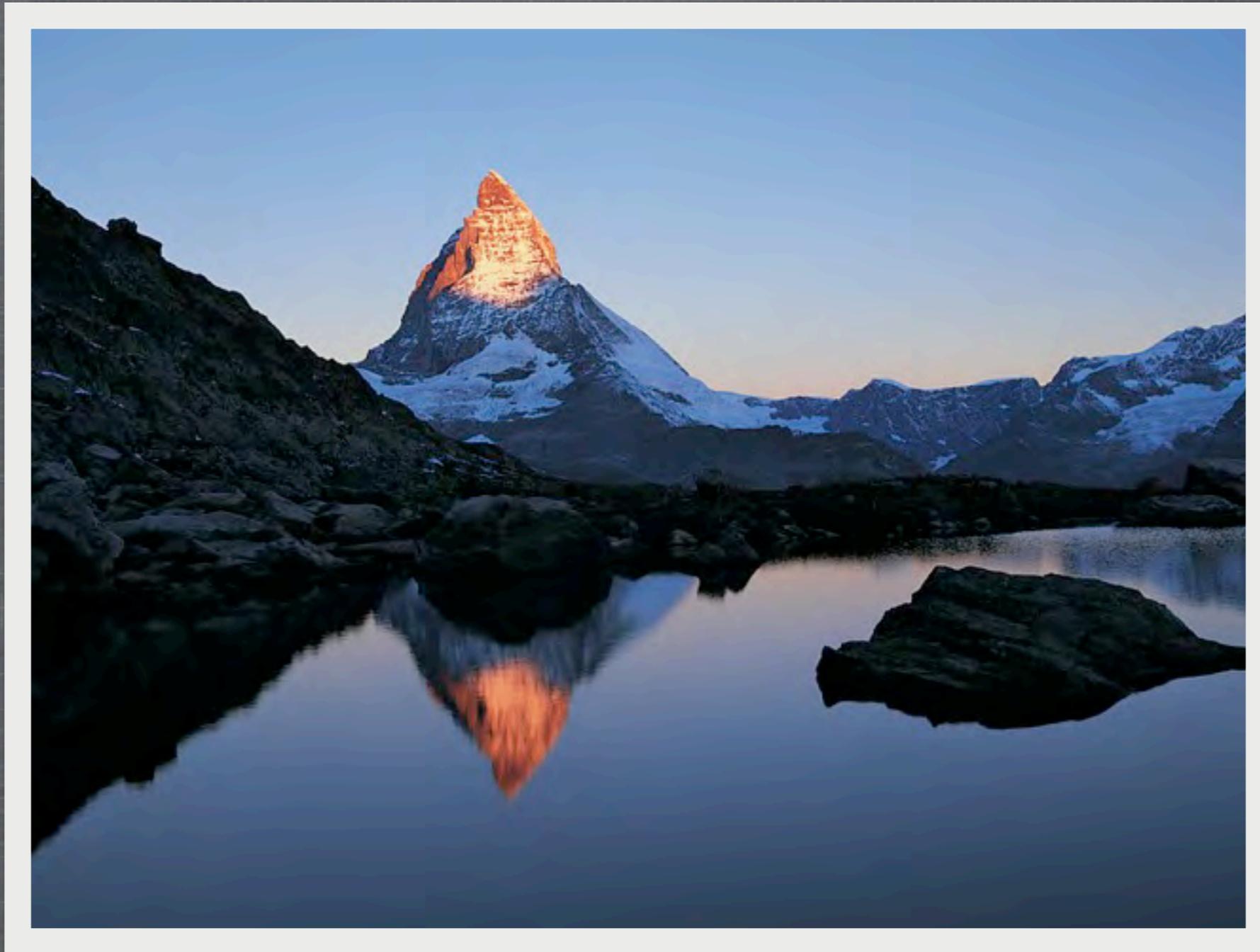
Other Resources



- Duty Counsel
- LSS Website
- Clicklaw
- Lawyers

WILLS & ESTATES

Raymond D. Phillips, QC



Presentation by Raymond D. Phillips, QC
Presented at the conference by Jay Havelaar

FORMALITIES

- **IS THE WILL VALID? (Section 4 WESA)**
- The primary requirements relate to the “ability of a person” to make a will; a persons competency (testamentary); and the person’s age.
- Other requirements relate to the formalities for the preparation and execution of the Will.

Note: If a Will is invalid, the Deceased is deemed to have died intestate. If the formality that makes a Will valid is deficient, it may be cured by a court order so as to uphold the wishes of the Will-maker.

- A Will comes into effect only upon the death of the Will-Maker.

Age Requirement

- To make a valid Will, a person must be 16 years of age (s.36(1)WESA). An exception is when the Will-maker is a member of the military forces or on active services.

Testamentary Capacity

- Be of sound mind):
 - Understand the nature of the act (Will) and its effect;
 - Have a general idea of the extent of the property that he or she owns;
 - Understand and appreciate the nature of the document - division of property; and
 - Have no insane delusion that would influence his will in disposing of this property

Undue Influence (s.52 WESA)

- The Will-maker must make and execute his or her Will voluntarily, free from undue influence. Have to establish that the beneficiary was in a position in which the potential for dependence or domination was present. Once established, the beneficiary must prove that undue influence was not exercised at the time Will was executed.

Statutory Requirements

1. Must be in writing (s.37(1)(a) WESA). A voice recording or a movie is not valid.
2. Will must be signed. To be valid, a Will must be signed “at its end” by the Will-maker – “attestation”.
3. Dated. Although not required by WESA, a Will is always dated in order to ensure that the one being executed is the last Will chronologically.
4. Will-maker’s signature must be witnessed.

SIGNING THE WILL

- The signature of the Will-maker must be witnessed by at least two witnesses who are present with the Will-maker. Each witness must sign in the other's presence and in the presence of the Will-maker, who must see the witness sign.

Holograph Will (no witnesses)

- Not valid in BC unless Will-maker was a member of the military on active service. Note: other provinces recognize holograph Wills (ie: Saskatchewan – Also Indian Act).

Legal Effect of a Will

- The main function of a Will is to:
 - Appoint an executor;
 - Appoint a guardian if there are infant children;
 - Provide for payment of Will-maker's debts;
 - Distribute property per Will-makers instructions; and
 - Provide for care of Will-makers family and/or business.

Gifts to Witnesses (s.43 WESA)

- A gift made to a witness, the spouse of a witness, or a child of a witness is void unless the witness seeking to uphold the gift makes a successful application to the court to declare that such a gift is valid.

Changes or Alterations to Wills (s.45 WESA)

- An alteration to a Will is valid if the signature or initials of the Will-maker and of the witnesses to the alteration are affixed in the margin or in some other part of the Will opposite or near the alteration.

Contesting a Will (s.60)

- A spouse or a child may contest a Will and apply to the court to vary its terms if it can be shown that the Will-maker has not made adequate provision for the proper maintenance and support of the Will-makers spouse and children. Action has to be commenced within 180 days from the date the representation grant is issued in BC, by initiating a pleading or petition.

Wills Notice

- In order to enable the personal representative to locate the original Will after the Will-makers death, it is recommended that a Wills Notice be filed with the chief executive officer under the Vital Statistics Act (Wills Registry).

Benefit Plans

- The designation of a beneficiary is one way to ensure that a benefit passes directly to a designated person or a trustee for the designated beneficiary and does not form part of the participants estate and is not subject to the claims of the participants creditors.

INTESTATE - NO WILL

- **INTESTATE (Part 3 of WESA)**

The Wills, Estates and Succession Act came into force on March 31, 2014. The act provides greater certainty for individuals who put their last wishes into writing and simplifies the process for those responsible for distributing an estate (Pre WESA – Estate Administration Act and Wills Variation Act).

WESA Benefits

- Clarifies the process of inheritance when a person dies without leaving a will;
- Makes the process easier for a person to transfer the title of their spousal home when their spouse dies;
- Clearly outlines the sequence in which to look for heirs to a person's estate;
- Provides the courts with more latitude to ensure a deceased person's last wishes will be respected;
- Clarifies obligations relating to property inheritance in the context of Nisga'a and Treaty First Nation lands; and
- Lowers the minimum age at which a person can make a will from 19 to 16 years old.

Per Stirpes v. Per Capita

Per Stirpes. (Latin for “by branch or stem”) means that each branch of the deceased’s family receives an equal share of the estate, regardless of how many people are in that branch. (s.24 WESA)

Per Capita. (Latin for “by head”). Means that shares are distributed to individual beneficiaries by “head”, and if a beneficiary is no longer alive (and therefore not counted), there is no further share for that person and no distribution to descendants of that person.

Escheat

- When a person dies intestate and has no heirs entitled under Part 3 WESA, the deceased's estate will escheat to the Provincial Crown, except those personal or real assets (bank accounts) that fall under federal jurisdiction and escheat to the Federal Crown.

DISTRIBUTION ON INTESTATE

- If an intestate dies leaving...
- **A spouse but no surviving defendants:**
 - the entire estate goes to spouse

INTESTATE

- **A spouse and descendants:**
 - If all descendants are also descendants of spouse, then first \$300K goes to spouse.
 - If all descendants are not common (blended family) to intestate and spouse, then \$150K.
 - After spouse preferential share, then 1/2 of remainder to spouse - 1/2 to descendants per stirpes.

INTESTATE

- No surviving spouse but descendants, whether surviving or deceased.
- Entire estate distributed equally among the deceased's descendants per stirpes.

INTESTATE

- **No surviving spouse or descendants**
 - The estate must be distributed equally to the intestate's parents or the survivor of them.

INTESTATE

- **No surviving spouse, descendants or parents.**
- Estate must be distributed equally to descendants of the intestate's parents or either parent per stirpes.

INTESTATE

- No surviving spouse, descendants, parents or descendants of a parent but intestate survived by one or more grandparents or descendants of grandparents (uncles aunts)
- Estate divided equally for each surviving grandparent (or to descendants in equal shares per stirpes).

INTESTATE

- **Effect of Adoption**

- An adoption severs a blood relationship for succession purposes. Adopted children have no right to inherit from their birth parents and the birth parents have no right to inherit from their adopted out child, unless provided for under a Will.

SURVIVORSHIP RULES

- Where 2 people die in common disaster, difficult to establish the order in which they died.
- Pre-WESA - younger person presumed to survive the older - estate passes to younger (different family?).
- WESA - 5 day survivor rule - if a person fails to survive a deceased by 5 days, he or she deemed to have died before the deceased.

REPRESENTATION / ESTATE GRANTS

- 3 types of estate grants
 - Grants of probate;
 - Grants of administration with Will annexed;
 - Grants of administration without Will annexed.

REPRESENTATION/ ESTATE GRANTS

- **Grant of Probate**
 - Applied for if the deceased left a Will;
 - BC Supreme Court validates the Will and confirms the appointment of the executor.

REPRESENTATION /ESTATE GRANTS

- **Grant of Administration without Will annexed**
 - Applied for if the deceased did not leave a valid Will (intestate).

INDIAN ACT

- s.45 “Minister may accept as a will any written instrument signed by an Indian in which he indicates his wishes with respect to the disposition of his property on his death”

INDIAN ACT

- s.45(3) Probate. No will executed by an Indian is of any legal force or effect...until Minister has approved the will for a court has granted probate per IA.

INDIAN ACT

- s. 48 Intestate. surviving spouse share - \$75K;
- s. 48(3) “where children not provided for Minister may direct all or part of estate go to children;

INDIAN ACT

- s.50 Person not entitled to reside on reserve cannot receive reserve land via estate.
- s.50(2) Minister can sell land
- s.50(3) Unsold land reverts to band ownership



A Legal Services Society website

Family Law

in British Columbia

Your legal issue ▾ Your community ▾ Legal system ▾ Staying out

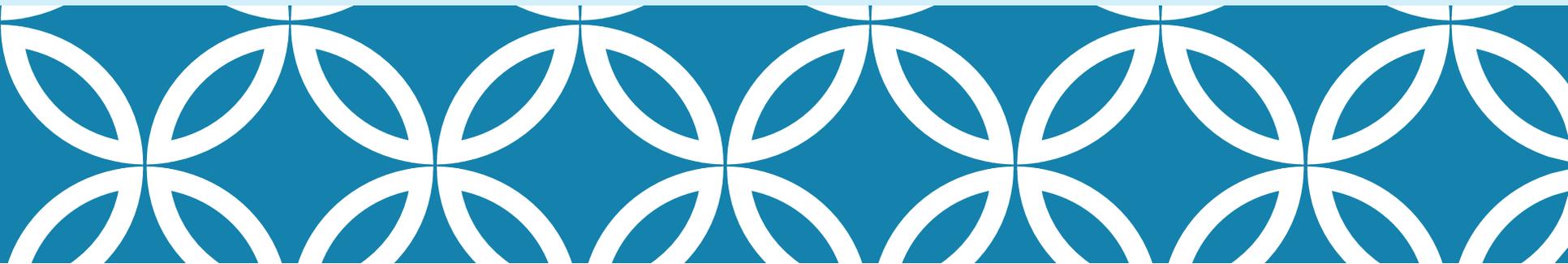
Aboriginal Legal Aid in BC

Home Your family ▾ Your rights ▾ On reserve ▾ We ca

MY LAW - BC -

Clicklaw

PUBLIC LEGAL EDUCATION & INFORMATION RESOURCES



Comox Valley Regional Conference
February 2018
Patricia Lim



HOW CAN YOU HELP PEOPLE WITH LEGAL INFORMATION?

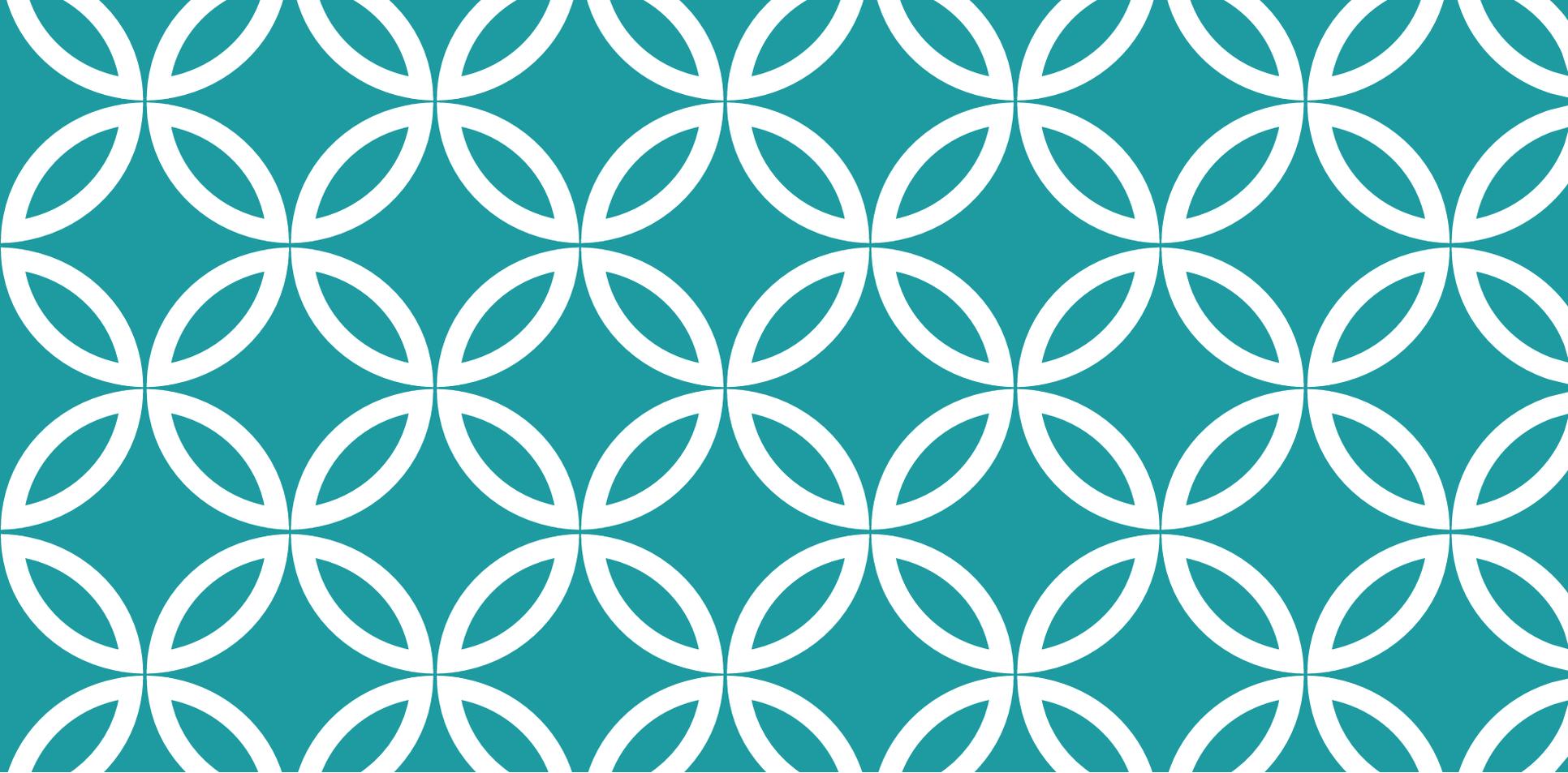
- recognize **legal nature** of problems
- find ways to stay **out of court**
- know how to **resolve problems early**
on their own or by seeking assistance
- find **options for help**
 - help apply for legal aid
 - help access information, representation, and advice services
 - provide referrals to advocates and other intermediaries



Credit: www.emsleys.co.uk

WHAT'S HAPPENING

- Overview of publications
- New and revised publications
- Websites and social media
- MyLawBC



INFORMATION RESOURCES: PUBLICATIONS AND WEBSITES



AUDIENCE & ACCESSIBILITY

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.

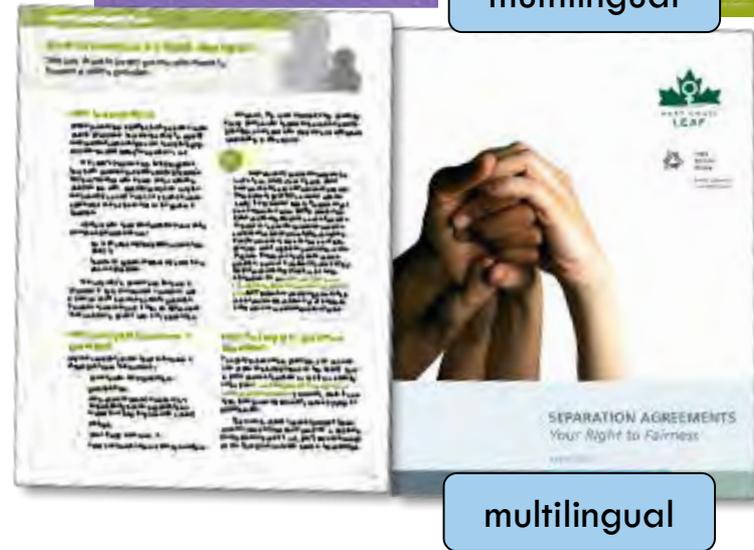
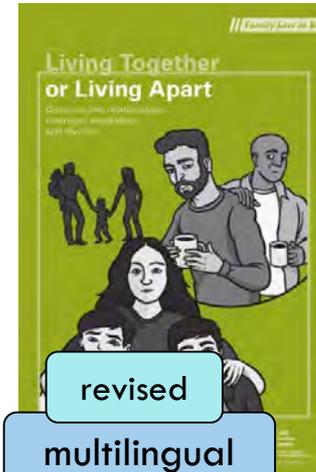
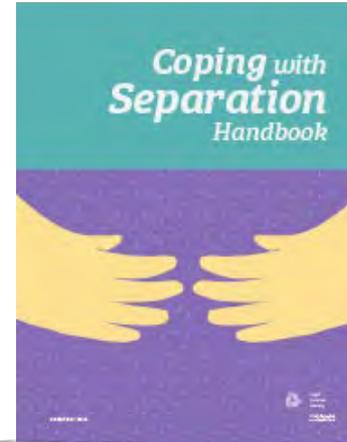
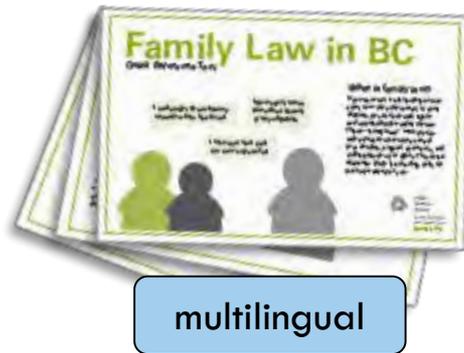
Basic familiarity assumed. Detailed material, written primarily as a reference for the advocate/intermediary audience, although accessible to members of the public with adequate literacy skills.

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

FAMILY LAW

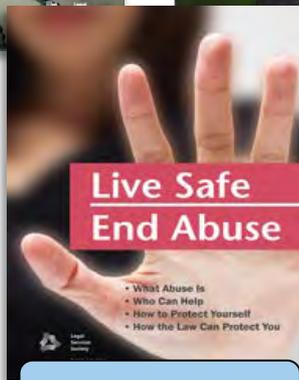
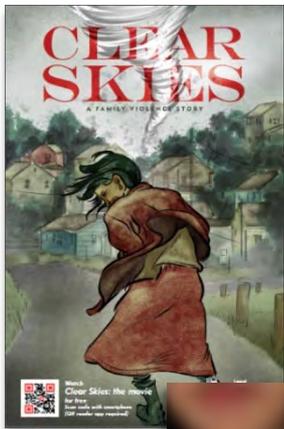
Level 2

Level 1



ABUSE & FAMILY VIOLENCE

Level 1

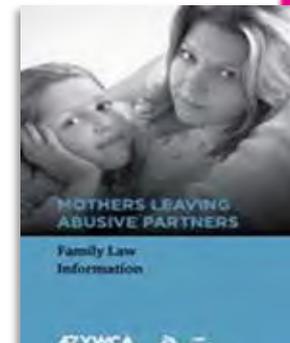


multilingual

Level 2



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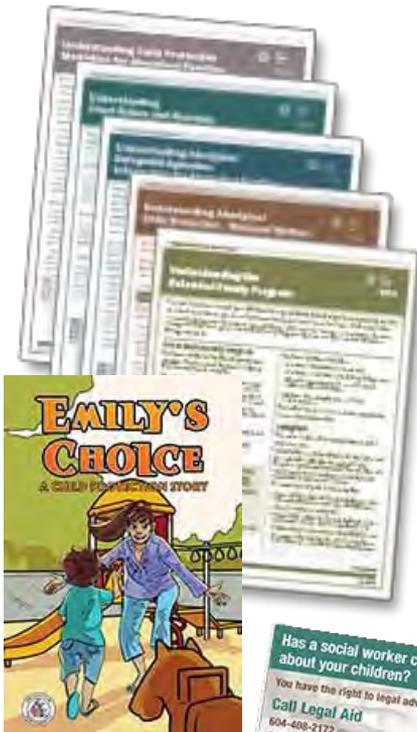
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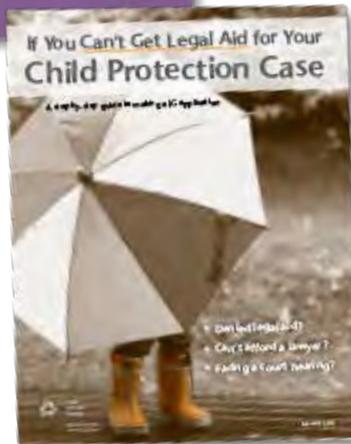
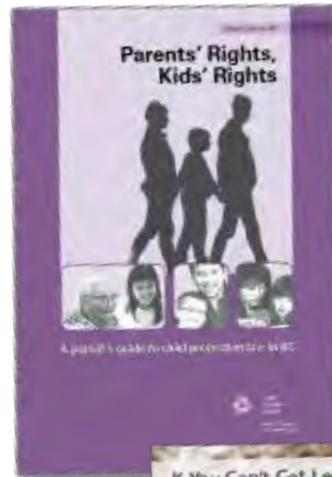
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CHILD PROTECTION

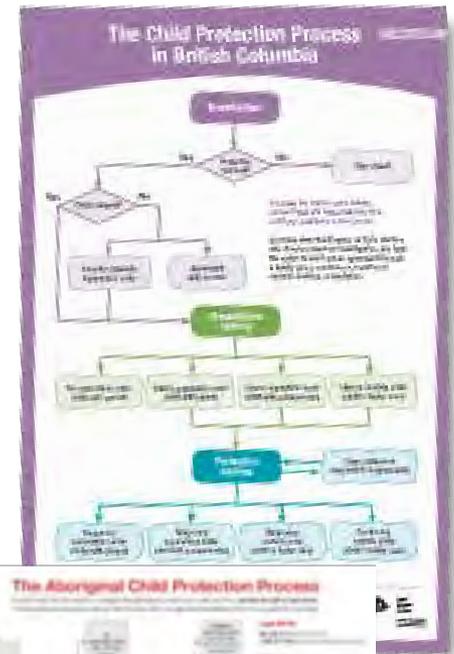
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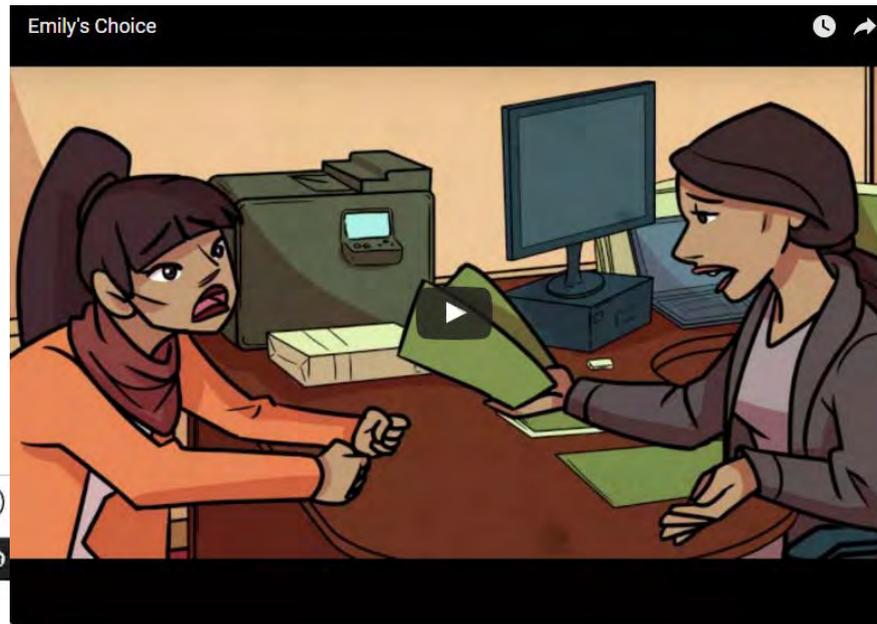
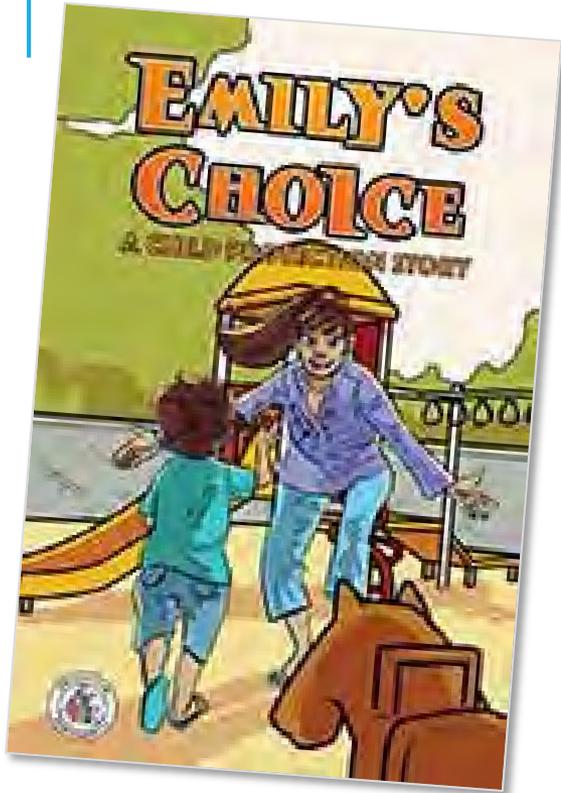
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Level 3



EMILY'S CHOICE GRAPHIC NOVEL/VIDEO



Emily's Choice A child protection story

Emily is struggling with addiction and an unhealthy relationship. She loves her son, Greg, but can't always take care of him. When Greg goes into foster care, Emily is heartbroken. But by getting legal help and with the support of her family, she gets Greg back. *Emily's Choice* is Emily's story.



aboriginal.legalaid.bc.ca

CRIMINAL LAW

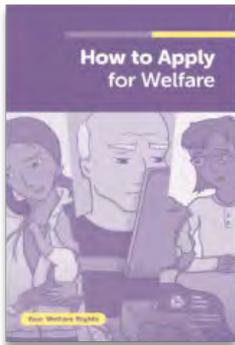
Level 1

Level 2



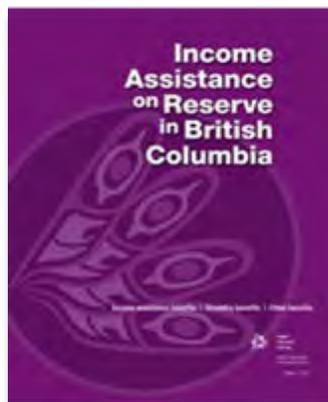
WELFARE & INCOME ASSISTANCE

Level 1



online

Level 2



IMMIGRANT & REFUGEES

Level 1



multilingual

Level 2



multilingual
to come

NEW AND UPCOMING PUBLICATIONS ABOUT GLADUE AND FIRST NATIONS COURT

1 Gladue Submission Guide

2 Gladue Rights at Bail and Sentencing

3 Your Gladue Rights

4 Introduction to Gladue

5 What's First Nations Court?

1 Gladue Submission Guide

Gladue rights apply to all Aboriginal peoples, living on reserve or off reserve.

2 Gladue Rights at Bail and Sentencing

It provides guidance on how to best prepare for a bail hearing or sentencing hearing. It also helps to understand the Gladue process and what information is needed to prepare a Gladue report. It includes information on how to prepare a Gladue report.

3 Your Gladue Rights

What Gladue applies

Arrest

Hold in custody

Released with conditions

Bail Hearing

Pre-trial custody

Released with conditions

First appearance

4 Introduction to Gladue

5 What's First Nations Court?

First Nations Court is a criminal justice system that is designed to be culturally safe and effective for First Nations people. It is a court where First Nations judges and justices hear cases. It is a court where First Nations people can see their cases heard by a First Nations judge or justice. It is a court where First Nations people can see their cases heard by a First Nations judge or justice.

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What's First Nations Court?

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COMING IN APRIL: OTHER NEW AND REVISED PUBLICATIONS

New publications

Your Welfare Rights: Welfare Benefits (second in the series)

Family LawLine promotional items

Revised according to new legislation/testing results

Guide to Aboriginal Harvesting Rights

More languages

Legal Aid poster

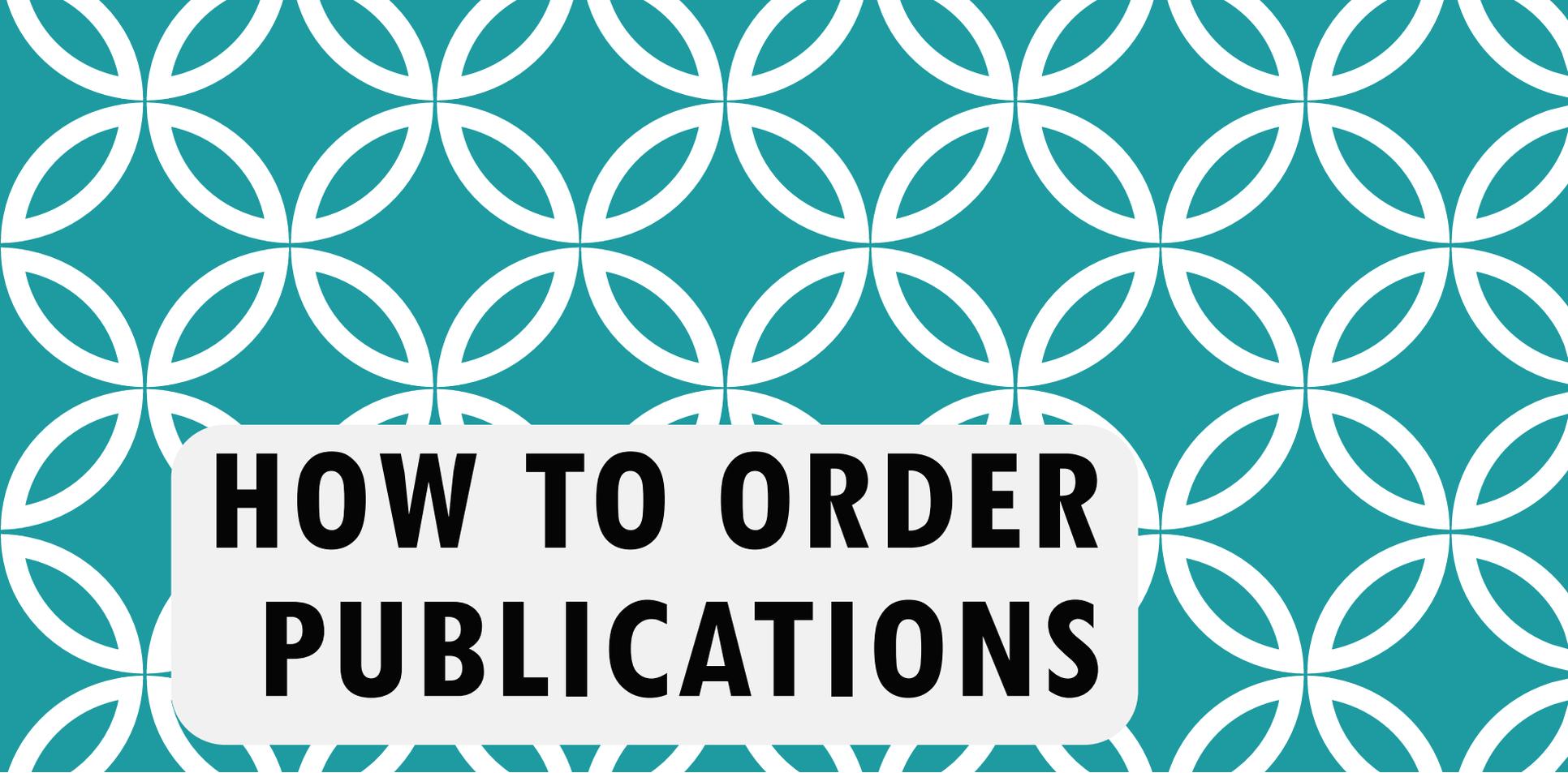
Mothers Leaving Abusive Partners booklet

Is that Legal booklet

Sponsorship Breakdown booklet

Need help with your refugee claim? Info card





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Free publications

 I want to find a publication by subject

- Aboriginal people
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- Child protection/removal
- Crimes & offences
- Debt
- Families & children
- Gays, lesbians, trans, & bisexuals
- Housing & tenancy
- Immigrants & refugees
- Legal help & lawyers
- Legal system & courts
- Promotional materials
- Staying out of court
- Welfare & benefits
- Wills, estates, & life planning
- Women

 I want to find a publication by language

 I want to find a publication by title

I want to get a publication

To get a copy of a free LSS publication

- Go to your local legal aid location, or
- Place an order with Crown Publications.

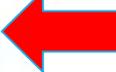
Featured publications

 **Gladue Submission Guide**
Plain language guide for Aboriginal peoples, lawyers, and Native courtworkers about how to prepare an oral or written Gladue submission for a bail or...

 **Is That Legal?**
What the Law Says about Online Harassment and Abuse To help youth become safer online when they use social media. It describes four online situations...

 **Live Safe, End Abuse**
Live Safe, End Abuse is for people leaving an abusive partner. The fact sheets and folder contain information on what abuse is, how people can plan fo...

Publications Lists

- Availability list 
- Readability list

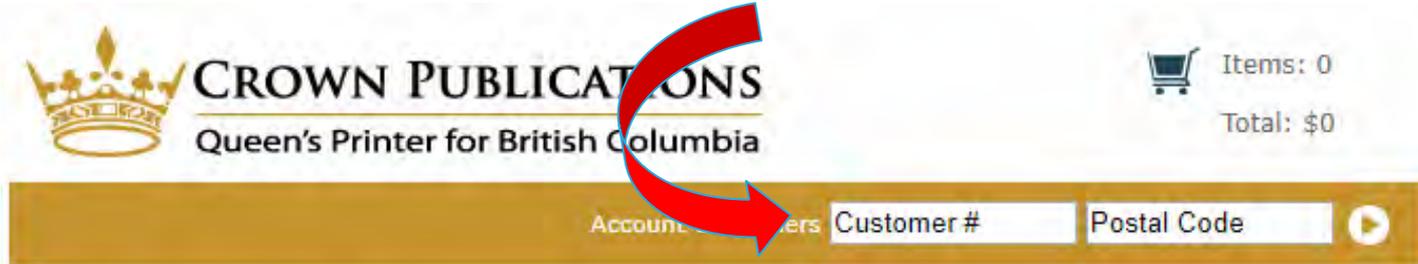
Publications updates

- The Factum Blog 
- Twitter

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Crown Publications



Your Gladue Rights (English)

Plain language booklet about Aboriginal peoples' rights under the Criminal Code of Canada called Gladue rights. It explains:

- restorative justice,
- how Gladue is applied in court,
- the history of Gladue, and
- Gladue reports and oral Gladue submissions.

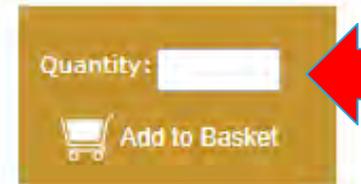
See also: [Gladue Rights at Bail and Sentencing](#) (infographic poster) and [What's First Nations Court?](#)

To view this publication online: [Click Here](#)

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The LSS Game Show

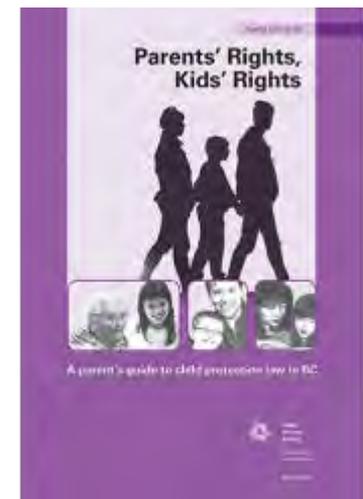
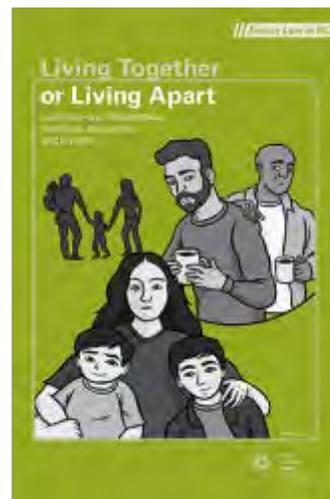
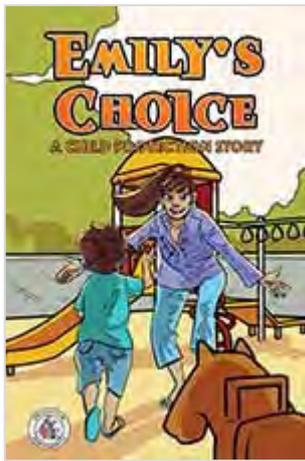
Q1: WHICH PUBLICATION HAS HAD THE MOST ORDERS IN COMOX IN THE LAST YEAR?

A. Emily's Choice

B. Living Together or Living Apart

C. Your Welfare Rights: How to Apply for Welfare

D. Parents' Rights, Kids' Rights



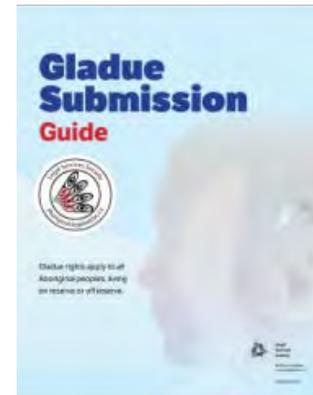
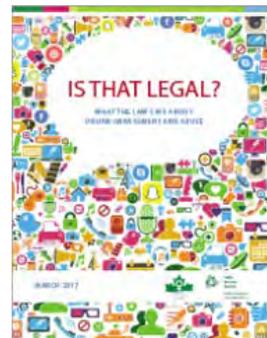
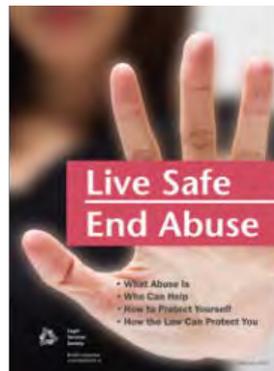
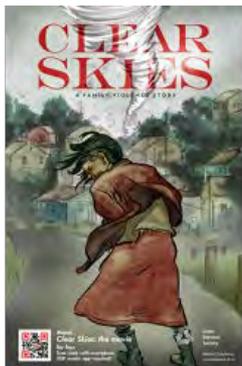
Q2: WHICH PUBLICATION TALKS ABOUT ONLINE HARASSMENT AND ABUSE?

A. Clear Skies

B. Live Safe End Abuse

C. Is That Legal?

D. Gladue Submission Guide



LEGAL INFORMATION WEBSITES

- Family Law Website
- Aboriginal Legal Aid in BC
- MyLawBC



FAMILY LAW IN BC

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A Legal Services Society website

Family Law

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Visit site

British Columbia's Legal Services Society maintains this site. If you're having a family problem, you may qualify for a lawyer to advise you or take your case. Contact Legal Aid to find out.

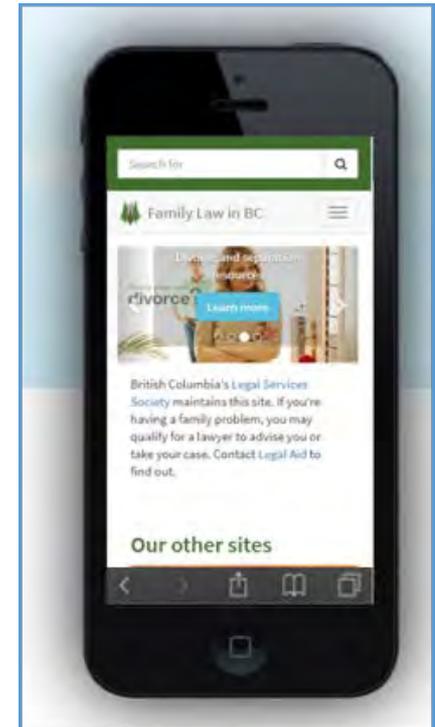
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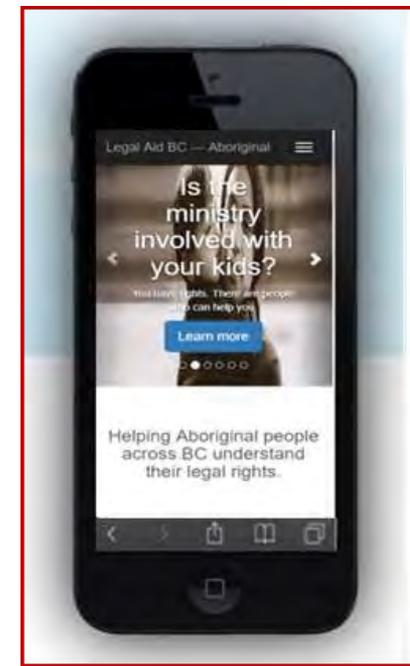
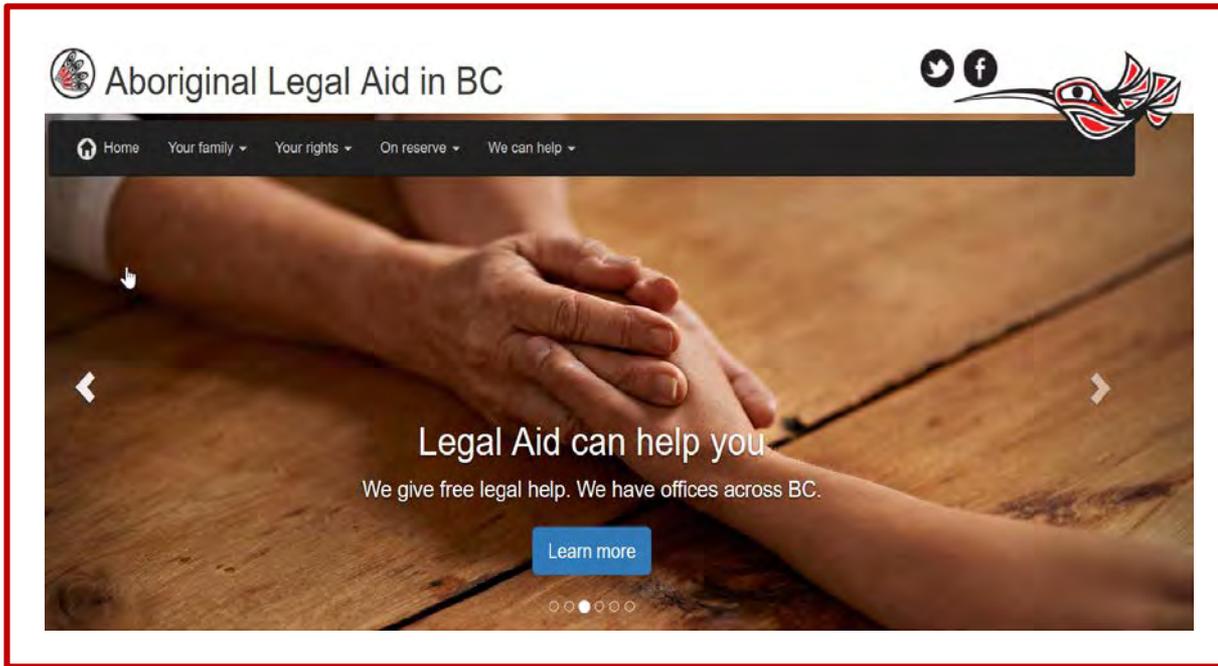
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British Columbia's Legal Services Society maintains this site. If you're having a family problem, you may qualify for a lawyer to advise you or take your case. Contact Legal Aid to find out.

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Pathways help you find solutions to your legal problem.

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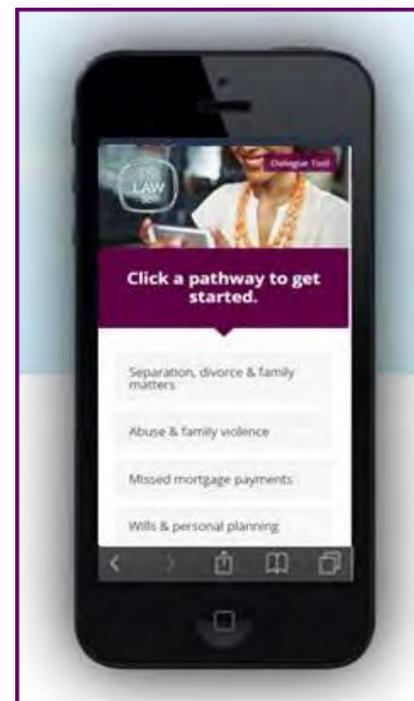
Missed mortgage payments

Wills & personal planning

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DO YOU WANT TO MAKE THE FAMILY LAW WEBSITE BETTER?

We are looking for intermediaries who deal with family law issues to provide feedback about the Family Law Website.

Participants must:

- regularly work with members of the public who are experiencing family law issues, and
- have a familiarity with the Family Law in BC website and its contents.



If you're interested, let me (Patricia) know!
We'll contact you to set up an interview over the phone.

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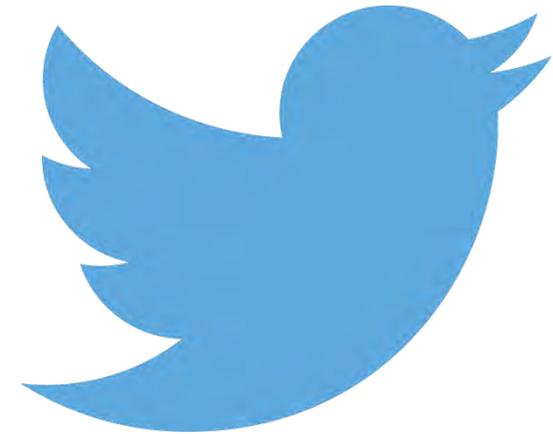
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Any questions or feedback about our resources or services?

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