Action Recommended

CBABC recommends the B.C. government establish a Unified Family Court for family law litigants. A UFC is recommended by various studies including the Family Justice Reform Working Group 2005 report, produced as part of the BC Justice Review Task Force.

Issues

Family law cases account for almost one-third of all civil court cases in Canada – and yet the Supreme Court of BC is the only level of court that has the power to grant divorces and divide property/debts following the end of a spousal relationship. Currently, the Provincial Court and Supreme Court have some overlapping jurisdiction over decisions about parenting time (custody and access), child and spousal support and property division about animals. The Provincial Court is also the court primarily addressing matters of child protection under the *Child, Family and Community Service Act*.

The two-court model can cause confusion for litigants and make family law proceedings inefficient. Due to the greater number of access points (over 80) to Provincial Court and the urgent need to resolve parenting and child support issues, a parent may start a child support claim in Provincial Court in, for example, Port Hardy. The other parent may start a court claim in the Supreme Court for not only the parenting and child support issues, but also to resolve housing and other property issues. That parent starts the claim in the nearest site of the Supreme Court to Port Hardy, which is Campbell River. There are now two proceedings in two courts operating under different procedures at different speeds. This results in confusion, inefficiency, duplication and delay for the parents and child. The parents are need to devote additional time and incur extra expenses for the two proceedings to be moved to one court, making an already difficult and stressful situation even more challenging.

The solution is to establish a UFC throughout B.C. Funding is available from the federal government. Six provinces already operate UFCs in one form or another. Such a model would allow all family law problems to be decided in one court where procedure can be modified to meet the needs of litigants, particularly parents who usually need to preserve a working relationship to co-parent in the best interests of their children. Further, judges and other court staff would develop knowledge and experience in addressing the unique needs of family law litigants, which could result in better experiences and outcomes.

Alternatively, a **triage approach** would help direct disputes to the appropriate court and process depending on each case's urgency, conflict level and complexity. To be successful, such an approach needs to:

- Be accessible throughout the province, such that those living in smaller centres with easy access to the Provincial Court can continue to have access to family justice;

- Use simplified rules and procedures that are adaptable to the needs of a particular case; and

- Assist families to reach resolution as quickly as reasonably possible, particularly cases where cooperative resolution will not lead to a final resolution.

The Early Resolution Program instituted by the Provincial Court and Ministry of Attorney General provides a form of triage to litigants who seek help through the Provincial Court. By assessing a case early, disputes that are quickly resolvable do not proceed into court. This helps many litigants but not those whose cases have greater points of conflict or whose legal issues can only be addressed in the Supreme Court. The Supreme Court's *Family Rules* involve a Judicial Case Conference at an early stage. These are positive tools but don't address the issue of increased points of access or the value of a specialized court for this unique and sensitive area of legal relationships.

More consideration should be given to developing a family justice system that features a more specialized approach. This means incorporating advanced **case management** options, where users work through their matters with the assistance of one judge who can build on the parties' work as the matter progresses, provide consistency and intervene immediately when a decision is required. Providing case management as well as access to various alternative dispute and early resolution services through a sound triage system would reduce conflict through the court processes and provide interim solutions to time-sensitive problems, as well as a mechanism for long-term solutions for families.

Additionally, a **specialized bench**, or judiciary with experience in family law and training in areas such as family violence screening, trauma-informed practice and equity and diversity, would greatly benefit those moving through the family justice system.

Why It Matters

Being forced to navigate the complex two-court model only compounds the challenges British Columbians often face at the end of their spousal relationships. Currently, people's family law matters are not heard in an efficient manner, which increases the time and resources required to resolve disputes in an already overwhelmed justice system. A coordinated triage system and/or UFC would provide a single access point for all family law disputes that require court resolution throughout the province, including in rural communities. Early access to experienced family law legal advice is a crucial first step to reducing conflict and emotional strain.

Ensuring streamlined rules and procedures, judges who specialize in family law and a strong cooperative resolution focus would also help families access justice. In addition to information and direction on the options available for addressing a family law dispute, services for different dispute resolution methods, including traditional and out-of-court options, should be provided.

Key Resources

Reaching Equal Justice Report: An Invitation to Envision and Act, Canadian Bar Association (2013)

Profile of family law cases in Canada 2019/2020, Statistics Canada (2021)

Unified Family Court, Summative Evaluation, Department of Justice Canada (May 2022)