



**Ministry of Attorney General
Justice Services Branch
Civil and Family Law Policy Office**

Family Relations Act Review

Chapter 1

**Background and Context for the
Family Relations Act Review**

Prepared by the Civil and Family Law Policy Office

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BACKGROUND AND CONTEXT FOR THE FAMILY RELATIONS ACT REVIEW

GOAL:

To create a simple, integrated and effective family justice system that promotes the wellbeing of children and families and enables families to resolve disputes quickly, fairly, effectively and affordably. In support of that goal, the Ministry of Attorney General is reviewing the *Family Relations Act* (FRA) as part of its justice reform and law reform strategy.

CONTEXT:

Societal context: The FRA was enacted in 1978 and has been amended as needed over the years. As a result, the organization of the FRA has suffered, making it harder for British Columbians to find and understand the law that affects them. Perhaps more importantly, there have been significant shifts in Canadian society that are not reflected in the law. Society's attitudes towards issues like same-sex relationships, parenting arrangements, family violence and other issues have changed considerably; furthermore, Canadian families are changing – fewer couples are getting married, more are breaking up and children are experiencing more transitions in their family makeup.¹ More people are using collaborative processes, such as mediation, to resolve family law disputes outside of court. The FRA has not kept pace with these changes.

Justice Reform Context: Programs and services are one essential component of the family justice system; legislation is another, often enabling those programs and services. A major review of family justice services and programs in BC was completed in 2005 by the Family Justice Reform Working Group. It was appointed by British Columbia's Justice Review Task Force, an ongoing collaboration between government, the judiciary, lawyers, and the mediation community, working together to help make the justice system more responsive, accessible and cost-effective. The Working Group explored options for fundamental change in the family justice system that would:

- make the system more accessible,
- serve the needs of children and families first and foremost,
- use available resources efficiently and effectively,
- integrate service planning and delivery,
- promote early resolution of disputes, and
- minimize conflict by encouraging early cooperative settlement, refining and enhancing non-adversarial settlement processes, and supporting trials as an appropriate recourse only when other means are not appropriate or effective.

¹ “Highlights and top 10 Trends for Canadian Families”, Profiling Canada's Families III, The Vanier Institute of the Family, 2004

The Attorney General has endorsed the Working Group's report and has published an update on implementation of the report's recommendations, available online: http://www.bcjusticereview.org/working_groups/family_justice/family_justice.asp. The Working Group makes some recommendations regarding the FRA but its focus was mainly on programs and services. The FRA review focuses on the legislative framework.

Legislation is only one aspect of reforming the family justice system. Programs and services are also an important part of the solution. For more information about programs and services, please refer to Chapter 5 which describes programs and services and will be posted on this website soon.

OBJECTIVES:

In undertaking this review, the Ministry of Attorney General aims to modernize the FRA so as to:

- reflect current social values, as well as family law research and policy developed over the last 25 years;
- support the use of out-of-court dispute resolution processes;
- encourage parents, where appropriate, to work together to reduce the effect of conflict on children;
- minimize the emotional and financial costs of family breakup;
- ensure consistency with observations of the Family Justice Reform Working Group that:
 - the family justice system should be founded on the values of family autonomy, cooperation and the best interests of children,
 - processes to resolve family issues should match the nature of the dispute, be proportionate to what is at stake, and be flexible enough to meet the unique requirements of each case, and
 - the family justice system needs better ways to discover children's best interests and to make them a meaningful part of family justice processes
- clarify the law so that it is more understandable and results are more predictable;
- consolidate the law pertaining to families in one statute, where possible, and improve the organization of the FRA; and
- ensure that public resources are used wisely and efficiently.

The review will not address: child welfare, adoption, child support, and divorce under the federal *Divorce Act*.

PROCESS:

The Ministry of Attorney General will be posting a series of discussion papers on this website and inviting feedback from the public. To participate, please read these papers and use the feedback form to provide your feedback.

The Ministry of Attorney General will also be conducting a series of consultations with the legal community. Please contact Stuart Rennie, the Legislation and Law Reform Officer at the Canadian Bar Association (British Columbia Branch) by e-mail at srennie@bccba.org to find out more about these consultations.

The Social Planning and Research Council, with the support of the Law Foundation, is planning community consultations for late spring. For further details on these consultations, please refer to the SPARC BC website at www.sparc.bc.ca.

The discussion papers will be posted and the consultations conducted in three phases:

Phase 1: February - May 2007

- division of property
- division of pensions
- judicial separation

Phase 2: April - August 2007

- parenting after separation
- children's participation
- access responsibilities
- family violence

Phase 3: August – November 2007

- child status (legal parentage)
- spousal and parental support
- co-operative approaches to resolving disputes
- other topics, including any that arise in the consultations