Family Justice Reports

a Summary of Selected Reports
on Family Justice Topics
from BC, Alberta,
& Federal/Provincial Sources
since 1992

Prepared for the
Family Justice Reform Working Group

September, 2003

Summary of Reports for the Family Justice Working Group

Table of Contents

Summary of Family Justice Reports:

"Breaking Up Is Hard To Do: Rethinking the Family Justice System in British Columbia", Report of the Family Justice Review Working Group, November, 1992

Background	• A client-based review of BC government family justice services prepared by an inter-ministry working committee with representation from the Ministries of the AG, Social Services and Women's Equality • Methodology: open-ended workshops in 13 communities with 266 people (clients, government service providers, community service providers, family law lawyers) in BC; Aboriginal communities in Kamloops and Prince George; enthnocultural services providers and the Indo- and Chinese-Canadian communities in Vancouver; children from divorced families, people who are physically or mentally challenged
Guiding Principles of the Family Justice System	• Understandable, accessible, affordable, equitable and timely • Recognizes the special needs and interests of children • Promotes a range of ADR compatible with different needs, financial abilities and legal requirements • Assists resolution of family problems in a way that respects their best interests and responsibilities of affected people • Works with communities, non-government organizations and other ministries to serve the changing needs of families • Provides a coordinated response to the needs identified by family members • Involves individuals who have skills to deal sensitively and effectively with people undergoing family breakdown • Provides facilities to ensure privacy and security, accommodate people with disabilities and provide child care • Includes effective mechanisms for the enforcement of all court orders respecting family matters
Issues identified	• Consensus of major needs raised in workshops: o A coherent, non-adversarial, out-of court system to deal with family issues o Resolution of custody and access issues in the best interests of the children o Adequate and regular financial support for children o Enhance understanding in the system of the dynamics of family violence and its impact on family breakdown (input on family violence/sexual abuse was not specifically sought but was raised in every workshop) o Change societal attitudes about divorce, child support and power imbalances in relationships o Review government policies & practices affecting families adversely: education, day care, job training, housing

	• Needs identified in the ethnocultural workshops o Greater understanding of cultural and language barriers – issues of leaving abusive relationships, family obligation, sense of shame, financial dependence, lack of support network o Identification of the connection between maintenance and custody – how one parent can use access to maintain control over the other parent; o Understanding of ability of a parent to avoid paying support by concealing assets or selling to relatives o Culturally appropriate information and education about family justice issues, especially for newcomers, immigrants, support workers and interpreters
	• Needs identified in the Aboriginal community workshops o Culturally appropriate, out-of-court approach to family law issues: clients avoid dealing with the court system for fear of what it might to do them and their children o Greater cultural sensitivity in the family justice system o Culturally appropriate information and education about family justice issues
	• Needs raised by children o Recognition of children's feelings o Help for parents to sort out their problems without fighting
Services Needed	• Clients' view of what services they would like, based on needs o Promoting healthy relationships – compulsory school programs that promote healthy, functional families; continuing grants to non-profit community agencies and other organizations to provide promotion and prevention programs; public education and awareness programs to help people understand parental responsibilities and marriage breakdown, gender biases and family violence o Relationship counseling – continuing grants to non-profit community agencies and other organizations to provide relationship counseling and information on family support services; improved information about available services and supports and relationship counseling and information on family support services o ADR – "front door" services for separating families outside the family justice system; support services to meet emotional needs of parents and children; mechanism that promotes fair, adequate and informed resolution of family matters; effective information services; increased non-adversarial conflict resolution by trained mediators outside the courts system o Adjudication – less formal, less confrontational process, recognizing clients' emotional needs; only one level of court; adequate, effective enforcement; emotional support for children o Ongoing support – ADR for resolution of ongoing family issues; counseling services to enable family members to cope emotionally

Recommendations	

Recommendations that could be implemented outside the current adjudication process	• **Community Family Relations Centres** (CFRC) to create a front door to the family justice system and to:
	  o employ staff skilled in ADR
	  o provide education programs, information and referrals
	  o help people who want to change agreements and orders
	  o test the concept and use of parenting plans
	  o work with community organizations and fill gaps in services not provided by community agencies
	  o work in conjunction with Community Advisory Boards
	  o have a liaison with FMEP
	• **Family Relations Branch** to be created within the BC government, to co-ordinate family issues within government; centralize and standardize services such as information and education materials, computer systems, and staff training; provide certain core staff in the CFRC, and to establish:
	  o Demonstration Community Family Relations Centres
	  o Family maintenance enforcement program
	  o Reciprocal enforcement of maintenance orders office
	  o Family search services
	  o Family Policy and Research
	  o Family Legal Services to Government
	  o Child Advocate's Office
	  o Family Court Counsellors
	• **ADR**: Promotion and support by the BC government, including provision of voluntary ADR for separating or divorcing spouses and development of qualifications and standards of service for mediators
	• **Child support guidelines**
	• **Maintenance enforcement**: improve FMEP's communications with people in the program; act on recommendations in the Semmens and Adams report ("An Evaluation of BC's Family Maintenance Enforcement Program")
	• **Family Court Counsellors**: detach from Probation Officer function and move to the proposed Family Relations Branch; focus on counseling and ADR and ensure appropriate skills

Recommendations relating to the current court system and ADR processes	• **ADR**: Proposed Family Relations Branch develop ADR to be tested at an existing court location with CFRCs • **UFC**: Establish one court to deal with all family matters • **Information** on the family justice system in plain language, in a variety of languages and gender neutral • **Maintenance enforcement:** Examine certain defined measures with a view to incorporating them into legislation; FMEP to monitor Ontario's automatic payroll deduction model; research the pros and cons of moving from an opt-in to an opt-out maintenance enforcement program

	• **Legal Aid:** Legal Services Society consider a sliding scale fee; closely monitor the quality of services by legal aid lawyers; increase the number of lawyers available for legal aid • **Child Advocates:** A Child Advocate's Division, capable of the new workload, be established within the Family Relations Branch to prepare custody and access reports at their discretion and develop standards for these reports; skilled and competent advocates to represent children in all family matters • **Supervised access programs**: AG explore feasibility • **Family violence:** Federal and provincial governments consider amending legislation to include as a factor in custody and access • **Language**: All relevant family legislation be changed to remove confrontational words • **Training**: Provincial government to support current efforts by the judiciary and bar to train judges and lawyers in issues relating to the appropriate resolution of family issues
Recommendations for education and information	• **School curriculum** to include life-skills training • **Non-profit agencies** to receive grants to provide education programs • **Teacher training** to support the Learning for Living curriculum • **Public awareness** campaigns on child support obligations, family violence, power imbalances in relationships, gender bias
Recommendations relating to socio-economic effects of family breakdown	• **Proposed Family Relations Branch** bring to the attention of government agencies: o Lack of second-stage transition houses o Lack of affordable housing and rental accommodation o Income tax implications of child support o Impact of child support on income assistance o Need for job training (particularly for women) following separation

"Family Justice Reform: Decisions, Implementation, Action", BC Attorney General, Family Justice Committee, T. Harrison, September 7, 1993	
Background	• Since 1976, recommendations have been consistent in what government should do to improve family law services • Family Justice Reform Committee with representation from Ministries of AG, Social Services and Women's Equality, was established to review and assess recommendations from all previous reports on reform of family justice in BC, prepare a report with recommendations and conduct a pilot project to test some of the major recommendations
Definitions	• "Family justice services" is a set of programs and services provided directly by, or under the auspices of, the provincial government to those who are considering the termination of their marriage or common-law relationship and seek outside assistance in reaching a decision and dealing with outstanding issues • Family justice services flow from the federal *Divorce Act* and provincial legislation including the *Family Relations Act, Family Maintenance Enforcement Act* and the *Family and Child Services Act*
General Problems identified	• Services are fragmented, poorly coordinated and sometimes overlapping, often spread out geographically and frequently not available when most urgently needed • Gaps, especially in alternatives to litigation; lack of suitable educational programs to help identify options including reconciliation; lack of supervised access; inadequacy of existing family (child) advocate service and overburdened service providers unable to provide timely professional assistance • Backlogged courts • Province-wide variations in quality of services • System is expensive, cold, impersonal, complex, and not responsive to emotional side of issues • Litigation is often protracted and focused on legal matters, not the best interests of children • Systematic gender bias in legislation, policy, procedures and outcomes • Lack of cultural insensitivity and flexibility
Recommendations	
• This is a consolidation of recommendations (called "decisions") of various reports which if implemented, would substantially improve family justice programs and services province-wide • Primary decisions are in order of priority and build on each other to establish a comprehensive family service delivery network • Secondary decisions address areas where there is currently another process underway for reaching conclusive recommendations for action	
Primary decisions	• **Community-based Family Relations Centres** o Establish where possible, offices offering family-related services (now offered to some extent by government) (information; referrals; mediation/conciliation services; support and short-term counselling; educational programs or materials on the impact of separation and divorce on family members)

	○ Share space with, or locate adjacent to related government programs (e.g. FMEP, Legal Aid) ○ Create links to services such as Child Advocacy services, Family Search services, Income Assistance ○ Establish a community advisory panel for each centre
	• **Mediation services** ○ Enhance accessibility of mediation and conciliation services provided by Family Court Counsellors ○ Make these services generally available in cases involving custody and guardianship, access, maintenance, and minor property division
	• **Education**: Design and implement programs widely available to parents as early as possible in the separating process
	• **Family advocates**: Enhance the AG's Legal Services Branch programs
	• **Supervised access**: Provide at every Family Relations Centre
	• **Family services**: Enhance existing services with increased staffing and funding, and an emphasis on mediation
	• **Family Justice Service Workers** ○ Separate the functions of Family Court Counsellors from Probation Officers ○ Eliminate duplication in services provided by FCCs and Family Maintenance Workers ○ Establish Family Justice Service Worker with high level of training and 4 basic functions: family justice advisor, family justice counsellor, family mediator and child custody evaluator
	• **Organization of government services** ○ Assemble government services to separating and divorcing families to improve coordination, reduce fragmentation, eliminate duplication and encourage consistency ○ Link to related services such as spousal assault programs, transition homes & victim assistance
	• **Enforcement of orders**: Increase effort to enforce court orders (maintenance, access and civil restraining orders)
Secondary decisions	• **Child Support Guidelines**: Continue active participation
	• **Division of property and pensions** ○ Continue research and consultation in division of property ○ Implement BC Law Reform Commission report re Division of Pensions on Marriage Breakdown
	• **UFC**: Create one court; join existing working group with representatives from federal & provincial governments
	• **Legal services:** Ensure availability to qualified families of independent legal advice and information, mediation services and representation
	• **ADR**: Authorize research and planning to move towards implementation of alternative forms of adjudication based on formal, informal and community-based tribunals combined with arbitration

"A proposal for Case Management in Family Court & For the Integration of Family Justice Initiatives and the Family Court Process", Prepared by Associate Chief Judge E. Dennis Schmidt, from "Report of the Chief Judge: Delay and Backlog in the Provincial Court of British Columbia, Part III Family Justice Reform Report," April 1998	
Background	• BC's Provincial Court and Supreme Court have concurrent jurisdiction in child custody, access and maintenance and spousal maintenance. This allows access to courts outside large centres, serves people who cannot afford the Supreme Court process, and provides a summary process for resolving family disputes • Provincial Court has exclusive jurisdiction in enforcement of maintenance orders made in Provincial Court and other areas. Division of matrimonial property, adoption and the granting of a degree of divorce are the only areas of family law where it does not have jurisdiction. • The access contemplated by the *Family Relations Act* is not always available because of the expanding workload of family cases in the Provincial Court • Time set aside for family cases in Provincial Court is inadequate province-wide (20% increase in 1997) • Many studies have called for a coherent family justice approach • Reports often result in pilots which are not followed through afterwards • *Breaking Up Is Hard To Do (1995)* called for an integrated approach using non-adversarial techniques to stream appropriate cases away of the courts before they enter the court process
Proposal	• Increase non-adversarial settlement outside court system and stream litigants to ADR • Make court system and outside agencies supporting the court system, more responsive to litigants' needs • Offer broader range of appropriate options to litigants, such as parent education and mediation • Reduce number of court appearances required by litigants • Divert appropriate cases out of courtroom, to be handled by Family Case Conference in informal, non-threatening atmosphere, by a judge experienced in mediation • Set trials only in cases that require resolution by trial, or where other methods have not achieved settlement • Make more efficient use of judicial time spent on *Family Relations Act* cases • Example of proposal: Burnaby since 1997 o Process: cases referred from court to Family Justice Centre; parties interviewed by Family Justice Counsellor; parent education and mediation available; in the few cases that return to the court system, judge conducts a Family Case Conference using mediation and traditional pre-trial preparation techniques o Results: of the 34 cases returned to court, 6 had to be set for trial after the family case conference, and significant saving in court time means that trials can now be heard within 2 months

Current situation and recent initiatives	• Family Court Counsellors (FCC)
	  o Provincial Court has relied heavily on the use of FCCs (s. 3 *FRA*)until they were largely withdrawn in 1997
	  o Previously, if there was no consent on an issue, or if a judge was concerned with a proposed consent, parties were referred to an FCC immediately and would then return to court to enter a consent order
	  o Since reorganization, a Family Court Counsellor is often not available and cases that could be settled with professional guidance must be set for trial
	  o Once set for trial, these cases become litigious and time consuming

	• Reports on Custody and Access
	  o Number of custody and access reports prepared by FCCs (s. 15, *FRA*), were severely curtailed
	  o These reports gave judges an objective view of suitability of parents to provide custody or access
	  o Many cases set for trial became consent orders on the basis of these reports; in others, the time at trial was reduced because fewer witnesses were needed on the issue of parenting ability
	  o Now, because judges cannot obtain s.15 reports, the number of cases set for trial is increasing
	  o More trial time is allocated to family matters at the expense of the already inadequate time for criminal matters

	• Parent Education Programs, Child Support Guidelines, Mediation by Family Justice Counsellors, Mediation Roster
	  o Recent AG initiatives have allowed court reform in family cases if incorporated into the court process
	  o Parent Education Programs and mediation are available in many communities throughout the province
	  o Child Support Guidelines for provincial orders and the necessary support services are in place

Family Court reform proposal by the AG and the Judiciary	• In 1997 the AG and Provincial Court Judiciary identified a shared objective: providing thoughtful and appropriate resolution of each family separation, to safeguard the best interests of children and disadvantaged persons • Ministry's initiatives in mediation, Family Justice Centres, child support guidelines and parent education should be available and accessible to parents engaged in litigation • Incorporate case management principles in court process and use s. 15 referrals only where a trial is necessary after other dispute resolution techniques have failed • Resources may not be currently available province wide, so rules should be developed to enable the model to be used as resources are made available, starting in as many high volume areas as can be accommodated as soon as possible • Parents with disputes in custody, access or maintenance should be initially referred to a Family Justice Counsellor (FJC, new term for FCC) to assess the case and refer parties to an appropriate resolution vehicle • Options for FJCs: mediate issues; refer parties to a Child Support Guidelines Clerk; to a Parent Education Program (Parenting After Separation); to private mediation using the roster recently developed by the Dispute Resolution Office; or to a Provincial Court Judge • When referred to a judge, the judge's options are: make the consent order agreed by parties (through FJC interviews or mediation, Parent Education, Child Support Guidelines Clerk, private mediation or after discussions between

	counsel); hear chambers applications for interim or ex parte orders; refer matter to a family case conference conducted by a judge; refer to a limited issue hearing; refer to a trial with the option of ordering a s.15 report • Use plain language, accessible forms and information booklets, mediation alternatives and management of the case by early judicially-led case conferences • Early intervention by Family Justice Counsellor who can stream parties to ADR
Recommendations	• Applications for child custody, access and maintenance in Provincial Court be reviewed by a FJC before a hearing is set before a judge • FJC practice triage by referring parties to Parent Education, Child Support Clerks, mediation or Chambers Judge • Judges be able to refer parties to Parent Education, Child Support Clerks, Family Justice Counsellors or mediation • Judges conduct Family Case Conferences prior to setting disputed cases for trial • Case management of any matter set for trial • Family Court Rules be amended to reflect these changes • No recommendation for a UFC at this time; unification of courts is not initially required so much as unification of each court with other service providers in the community • Scope is in integrating Provincial Court with other service providers • Start discussions of problems created by concurrent jurisdiction of Provincial and Supreme Court as soon as possible • Final step in this proposal is unification of the courts, to provide acceptable access for separating families throughout the province

"Backgrounder to Child Family Justice Strategy", Department of Justice, December 2002	
Objectives	• Help parents focus on children's needs after separation and divorce by minimizing the potentially negative impact of separation and divorce on children; aid parents in reaching parenting arrangements that are in the child's best interests; ensure that the legal process is less adversarial by an increased use of ADR • Objectives are composed of three pillars: family justice services, legislative reform and expansion of UFC
Services for families	• Parents need tools to help minimize conflict, cooperate and work out child-focused parenting arrangements (e.g. parent education courses, mediation) • $63 million in new Federal funding over 5 years to province and territories for family justice services
Legislative reforms	• *Divorce Act* will be amended to include a list of specific criteria for parents, legal professionals and judges to use in considering what is in the best interests of children, which is paramount concern in family law • "Custody" and "access" will be eliminated in the *Divorce Act*; new model is based on parental responsibilities, removing the win/lose and ownership connotations associated with custody and access; this change will reduce conflict between parents and help them focus on the important obligation to ensure care for their children • Amendments to the *Family Orders Agreements Enforcement Assistance Act* and the *Garnishment, Attachment and Pension Diversion Act* to improve enforcement of support obligations
Unified Family Courts	• Need for a timely, efficient and simpler court process • $16.1 million Federal funding/year for 62 new judges (46 will be promoted from Provincial Court) to expand UFCs • Provinces and territories will reinvest money they save on provincial judicial salaries in family justice services • UFCs will provide easy access to an array of family justice services; specialized, expert judges; and a user-friendly environment with simplified procedures

Summary of Unified Family Court Reports:

"Unified Family Court: Background and Discussion Paper #1", BC Justice Review Task Force, October 7, 2002

Definition	• Unified Family Court (UFC): a single level of court for all family law matters, with simplified court procedures and specialized judges and a wide range of non-judicial family justice services; client-centred focus
Background	• First UFCs in Canada in the 1970s • Province-wide UFCs in Manitoba, New Brunswick and PEI; partial UFCs in Saskatchewan, Ontario, Nova Scotia and Newfoundland; no UFCs in BC, Alberta and Quebec • Alberta has been working on a UFC proposal • 1998 – Special Joint Parliamentary Committee on custody and access recommended that the federal government continue work with provinces to establish UFCs across Canada • UFC project ran in Surrey, Richmond and Delta from 1974-1977 – not a true UFC but an administratively integrated court with both Provincial and Supreme Court judges available through a common registry • Continuing support for UFC in other provinces, some with UFCs for more than 20 years, suggest these concerns can be successfully addressed
Reasons to consider UFC	• Divided and overlapping jurisdiction of two levels of court results in practical and procedural problems, such as: o Provincial Court may not be able to resolve all issues because only Supreme Court can deal with division of property and divorce, resulting in a multiplicity of proceedings o Multiplicity of proceedings where there is concurrent jurisdiction o Delay in applications to Provincial Court to enforce a Supreme Court support order if the payer asks to vary the order at the enforcement hearing
Advantages of UFC	o Administrative efficiency; better use of court time; and better service for people who approach the court o Better integration and co-ordination of family justice services and the court process
Funding issues	o 1998 – federal government provided funding for UFCs in 4 provinces by appointing new superior court judges for UFCs, most from the Provincial Court judiciary; money saved on Provincial Court judges' salaries was used to provide family justice service, allowing Newfoundland, Ontario and Saskatchewan to expand their existing UFCs and Nova Scotia to establish its first UFCs o Under agreement with the federal government, Nova Scotia used the salaries and benefits of two retired Family

	Court judges and of all judges elevated from the Family Court to the UFC for family justice services; Nova Scotia also provided additional space and renovations to existing space to support the services; the federal government paid for the UFC judges and continued funding for services through the Child Support Guidelines initiative • August 2002 – federal government states its commitment to expansion of UFCs; federal officials suggest that provinces wishing to establish or expand UFC should now make proposals • Alberta UFC Task Force report highlights the importance of adequate funding to successfully implement and operate a UFC; recommends UFC only if the provincial government is prepared to commit financial and administrative resources and federal government is prepared to commit the judicial resources needed for an effective UFC • Since 1996, the federal government has provided provinces and territories with funding for family justice projects, initially as part of the Child Support Guidelines initiative; this funding ends March 31, 2003 and the federal government has not indicated whether it will continue funding after that; this is a potential source of federal funding for family justice services • Availability of funding will be critical; key question is whether money saved on Provincial Court judges' salaries and benefits and any other federal funding will cover the cost of establishing and operating an effective UFC in BC
UFC sites	• 7 potential UFC sites, centrally located and with relatively high court sitting hours on family matters: Surrey (includes New Westminster); Robson Square (includes Vancouver Law Courts and Burnaby); Victoria; Abbotsford; Kelowna (includes Penticton); Kamloops; Prince George
Potential savings on judges' salaries	• Assuming that a UFC judge sits 675 hours per year, 29.3 UFC judges would be required for the 7 locations • Federal government will likely appoint 75% of the needed judges from the Provincial Court, with the remaining 25% being new appointments; the province would save about $2 million on salaries and benefits, to invest in new services
Potential improvements to family justice	• Current Family Justice Centres provide a community-based entry into the family justice system • With assistance of federal funding, the Ministry has enhanced administrative assistance for obtaining and varying child support orders, early dispute settlement opportunities for parents approaching the Provincial Court, support enforcement mechanisms and comprehensive and integrated delivery of family justice services through community based Family Justice Centres • Savings on judges' salaries and benefits would be used to improve the array of family justice services • Services provided in UFC in some or all of the other provinces: intake services; help with court process; mediation; information brochures legal services; supervised access and exchange; assessment and home studies
Accessibility issues – geographic	• Concern that UFCs in BC will limit access to justice because there will be fewer court locations • Making UFC available to everyone within a reasonable time and distance is a challenge in a huge province such as BC • Technology can increase access to UFC: fax filing; e-services; video conferencing; linking of a primary site or court of record to a secondary site which may be a non-court site; provision on the internet of court forms and information

	about the justice system and services • Circuit courts can increase access; fax filing, e-services and video conferencing can be used with circuit courts • Manitoba has had province-wide UFCs since 1989, but because of the need for people in remote locations to have easy court access, family law cases can be heard in either Provincial Court or UFC • Could a UFC be established province-wide in BC all at once? Ontario built its UFC in phases while working toward a goal of having UFC serve the whole province
Accessibility issues - procedure	• Need to simplify and reduce the formality of court practices and procedures • Ontario has developed special UFC rules – simplified procedures and forms in plain language: for example, there is only one type of originating document – an application; telephone and video conference motions as of right; examinations for discovery or cross-examinations on affidavits only by consent or court order (except in child protection cases)
Accessibility issues – cost	• No fees for Provincial Court family proceedings or family justice services except a nominal fee for supervised access • An appropriate schedule of fees is needed, to keep decrease financial barriers • Examples: Nova Scotia has fees for starting proceedings and a sliding scale for some family justice services, fees can be waived in certain circumstances; Manitoba does not charge fees for family justice services
Court structure	• Judges must be superior court judges for a UFC to have comprehensive jurisdiction over family law • Should UFC be a separate court dealing only with family law or a division of the BCSC? • All UFCs in Canada are divisions of a superior court (however, Ontario's UFC started as a separate court)
Specialized judges	• Alberta UFC Task Force report recommends judges be specifically appointed to UFC, as is done in Manitoba, New Brunswick and Nova Scotia. In Newfoundland, PEI and Saskatchewan, judges are appointed to the superior court, then assigned to the family division; in Ontario, superior court judges are appointed to its UFC; in all these provinces, there is some limited flexibility to assign UFC judges temporarily to another division and to assign judges from other divisions temporarily to the UFC when workload requires it • Specialized judges offer greater knowledge of, and interest in, family law and familiarity with practical implications of their orders and specific practices and procedures; sensitivity to social and emotional issues; more consistency and predictability of results; and better use of court time • Concerns: "burn-out" and whether enough judges would interested in specializing in family law
Specialized judicial officers	• Masters and registrars already deal with many family law issues in BCSC; their role in UFC needs to be explored • Potential for developing administrative processes to replace judicial processes where appropriate
Jurisdiction of UFC	• UFCs in other provinces have broad jurisdiction over family law matters, including child protection • Nova Scotia is now the only province to include young offender matters in its UFC • Alberta UFC Task Force recommends against including young offender matters initially, with a review of that decision

	within 2 years of establishing the UFC
Legislative amendments	• To establish a UFC in BC, certain provincial and federal statutes (e.g. federal *Judges Act* and the provincial *Supreme Court Act)*must be amended
Developing and implementing UFC: scope of the project	• To create a UFC at 3 sites in Nova Scotia, 2 city family courts merged and the Supreme and family court functions in two major regions merged; 2 full-time Justice Department staff members served as team leaders, with 2 others working on programming and other committee tasks • Nova Scotia established an Implementation Committee that included judges, lawyers and court staff; 160 members of 25 sub-committees worked on the project for one year, including re-writing court rules and procedures, overseeing changes in building structure, training, public education
Initial steps	• After a decision is made to pursue the implementation of a BC UFC, a number of steps should be taken immediately: o Assign responsibility and establish a project team: a small project team, including several branches of Ministry of AG and representatives from the judiciary and the bar should do the initial development work o Negotiate with the federal government: discussions should start as soon as possible to take full advantage of any available funding; the province should be prepared to provide the federal government with information about its plan, including number and location of UFC sites, estimated number of judges needed, options for appointing judges, proposed family justice services and estimated cost of those services o Prepare and submit a formal proposal to the federal government including the province's vision of UFC and its implementation plan
Steps following federal approval	• Some of the major issues involve project planning, research and evaluation; legislation; rules and procedures; family justice services; training and education; technology; staffing; facilities; communications; transition process

"Response of the Supreme Court of BC" to the Unified Family Court Justice Review Task Force Background Report", November 22, 2002	
Benefits of a UFC model	• Avoid delay, extra expense, confusion and frustration • Judges have experience in, knowledge of and an interest in family law • Potential for an effective, cost efficient, simple and just process for family law litigants
Prerequisites for a UFC	• Sufficient judges and staff to ensure that cases can be heard in a just, timely, simple and cost efficient manner • Sufficient court attached support resources, including legal aid, duty counsel, legal information officers, family court counsellors, child support guideline assistance and interpreters • Province wide coverage • Before endorsing a UFC, the BCSC would like a detailed analysis of the funding required and assurance that it will be available in the short and long term; the court is hopeful that a commitment to an effective UFC can now be made
Need for further review	• Need to review jurisdiction of court, whether child protection and young offender issues will be included and whether the court would have the resources required to take jurisdiction in these matters

"Response of the Provincial Court of BC" to the Unified Family Court Justice Review Task Force Background Report	
Conclusions	• Public interest favours the amalgamation of all family cases into one court; in a general sense, amalgamation will create efficiencies and avoid the undesirable duplication of proceedings • Current proposal lacks sufficient detail of government's commitment to provide the needed resources in the long term • The Court supports the idea of one court to deal with all family law problems in a timely, cost-efficient manner with: o Simplified rules, procedures and forms o Modest fees based on ability to pay o Complementary family justice support services o Assignment of judges who are interested and well educated in, as well as committed to family law o Accessibility to all British Columbians
Prerequisites for a UFC	• Provincial Court is prepared to endorse the idea of a UFC, provided government commits to providing adequate, permanent funding to support it and ensure that it maintains or enhances levels of access to justice
Concerns re the Justice Review Task Force Background Report	• Limitation of UFC to 7 sites is unacceptable; services of family law courts should be available to all British Columbians within reasonable time and distance; an estimated 45 judges required for province-wide UFC • Simplified forms, rules and procedures are essential, and are not the case in other UFCs in Canada • Support services are lacking, especially in smaller centres through BC affected by cutbacks • Concerns about cost-effectiveness of having UFC judges traveling to locations where Provincial Court now deals with all matters; one judge potentially could do all the work if that judge had s.96 powers

"Unified Family Court, Background and Discussion Paper #2: Status Update", BC Justice Review Task Force, August 2003	
Comments from the CBA	• Agreement on potential benefits of UFC: single jurisdiction decreases multiplicity of proceedings and increases efficiency and convenience; specialized judges dedicated to family law; increased reliance on out-of-court family services; simplified procedures • Implementation of a UFC however raises many issues
Implementation	• Consultations showed preference for province wide implementation because of concerns for equal access to courts, disparity of services between UFC and non-UFC registries and potential complexity of different rules during transition • Supreme Court stated that province wide coverage would be necessary for an effective UFC • Provincial Court stated that UFC should be available to all British Columbians within a reasonable time and distance • Federal funding now and in the past (other provinces) has contemplated initial funding only for partial implementation • Appears there is insufficient funding available to allow BC province-wide implementation
Court Structure discussed in consultations	
How the Court would look	• Provincial and Supreme Court users should be at least as well served in new system as present system • Current strengths of each court should be retained (e.g. Family Case Conference in Provincial Court and Judicial Case Conference in Supreme Court) • Two options discussed: o 1. Some areas serviced by UFC on circuit model o 2. Implement UFC on a regionalized model and retain existing split jurisdiction in regions not served by UFC
Specialized bench	• Lawyers are receptive to a specialized bench with expertise and intensive exposure to family law • However, may result in longer hearings since degree of scrutiny may be higher and Provincial Court judges might be disappointed by the reduction in variety of their work by the removal of family jurisdiction
Family Services	• Cost of judicial salaries would shift permanently to federal government, with the province usually allowed to retain funds previously devoted to provincial court judges if they are applied permanently to services in the UFC • New and additional service for litigants supported by the Bar • Options discussed: mediation, s. 15 custody and access reports, family advocate services, duty counsel and other legal assistance, supervised access, stand-down family justice counsellor services, "triage" services to provide information and direction to unrepresented litigants • Concern re availability of adequate legal services generally • Concern that additional services to UFC could create a disparity between level of urban and rural services • Concern that costs for implementing UFC would significantly reduce the amount of money available for services; but

	savings from appointment of existing Provincial Court judges to UFC must, by federal funding rules, be applied only to UFC services; one-time implementation costs and ongoing administration costs must be carried by the province • Questions about scope of services and possibility that $2 million of services would not have a large impact
Rules and complexity	• Concern re how to retain procedural alternatives needed in complex cases while promoting simplicity in procedures • Concern that simplifying court system might encourage more unrepresented litigants which may create greater delays and reduce efficiencies; however, others observed that majority of litigants in Provincial Court are self represented and these litigants are increasing in both courts and efforts should be made to make procedures more user friendly
Costs and fees	• Concern that court fees for all UFC cases would decrease access for low income litigants now using Provincial Court • Caution that removing filing fees in Supreme Court would promote frivolous claims
Other provinces	• UFC has had varying success in other provinces • Concerns: court backlogs, staff shortages, increased use of judges in more administrative capacities and lack of uniform application of UFC rules • Positive aspects: improved case management system, more adaptable court, collegiality of bench and bar, better integration of helping professions into the court process • Many judges and lawyers positive about move to UFC • Delays and increased pressure on system flow largely from transfer of child protection jurisdiction to UFC and changes in child protection legislation; shows a need for more judges and not a problem with the UFC concept
Technology	• Support for video conferencing and other technological devices-should be tested immediately in event of a UFC • Internet has potential to enhance delivery of information to litigants
Time Frames	• Some concern on short time allowed by terms of federal funding proposal, to develop plans for a UFC
Funding and the Federal Government	
Federal announcement	• December 10, 2002, Federal Justice Minister announced Child-Centered Family Justice Strategy o Commitment to fund provinces and territories for family justice services and for expansion of UFC o $16.1 million a year for 62 new judges, 46 of whom will be promoted from provincial court o Expansion of UFC is to commence 2005-2006 • February 2003, Department of Justice issued a formal request to province and territories for UFC proposals o Negotiations between interested provinces and federal government on number of federal appointments to each province will probably take place over the next year o BC does not know how many of the 62 federal appointments it would be able to secure for a UFC; virtually no prospect that BC would secure enough appointments for a province-wide UFC
Funding realities	• Less federal funding than appeared • February announcement indicated two funding pots available to the province: “family justice services fund” which is

	$2 million a year to BC over this and the next 4 years – this is a successor to a fund BC has received from Ottawa for the last 7 years, which has been used to support a wide range of innovative family court services such as the Rule 5 Registry Project under the Provincial Court Rules • Federal UFC funding formula would reduce province's family justice funding by an amount equal to the UFC funding with no net gain for implementing UFC • Factors against proceeding with UFC in BC at this time: o effectively no federal financial support to do so o courts are expressing a preference for province-wide implementation, and even if federal funding were available there would not be enough to accomplish universal implementation in one step; and o preferable to have more time to study the UFC option so that we could better understand what UFC might look like in BC and whether the UFC format is the best option for BC.
Next Steps	• Merit in many aspects of UFC which is clearly the national direction in family law • Task Force wishes to better understand questions and issues raised in consultations, thus, the creation of the "Family Justice Reform Working Group"

Program and Project Evaluation Reports:	
"Mandatory Parenting after Separation Pilot: Final Evaluation Report", BC Attorney General, Policy, Planning and Legislation Branch Corporate Planning Division, October 2000	
Background	• MPAS is a pilot project by Family Justice Services, Corrections Branch and Dispute Resolution Office; project evaluation is by Corporate Planning Division with representatives from Corrections and Dispute Resolution Office • MPAS pilot started June 1998 in Burnaby and New Westminster, requiring parties with disputes about custody, access, guardianship and support to attend an MPAS workshop before setting a first court date • MPAS project was expanded to other courts in November 1999 and further in September 2000 • Project goal: to encourage parties to use means other than court to settle family justice disputes
Evaluation Objective	• Expected outcome: less use of courts and more use of alternatives to court by parties at pilot sites • Evaluation objective: to assess the impact of MPAS on litigation patterns in the pilot jurisdiction
Methodology	• No quantitative baseline data to conduct pre- post-comparison, so a comparison location was chosen with similar litigation patterns prior to the pilot and family case files were reviewed at both pilot and comparison sites o Family files from pilot sites (Burnaby: 232 cases and New Westminster: 132 cases) were compared with North Vancouver (100 cases) where pilot did not operate o 9-15 months from date the file was opened to the researcher's review • 5 pilot site court staff were interviewed re perceptions of change in litigation patterns in pilot location • Follow-up interviews with 22 self-selected MPAS participants in March 1999, 6 months after they attended course, about plans or attempts to resolve their disputes by any means, including court and alternatives to court
Limitations of the evaluation	• All factors influencing case flow and outcome of pilot were not documented due to resource limitations; some of these issues were explored through court staff interviews o One important change during the pilot was implementation of new Provincial Court (Family) Rules December 1, 1998; cases that applied new rules were examined separately from those applying old rules • Relatively small number of files reviewed • Files opened in latter part of project did not have much time to evolve • Interviews are not representative but explanatory

• **Evaluation findings**	
• **File review**	• MPAS may have reduced the number of cases going to trial and reduced appearances in those that did go to trial • Cases under old rules – MPAS seems to have reduced number of first appearances in particular (96% comparison area versus 66 % pilot area on first appearances) and somewhat reduced subsequent appearances • Cases under new rules – greater reduction in appearances, especially 2nd and subsequent appearances (23% comparison area versus 4% pilot area on more than 3 court appearances); fewer first appearances at all 3 sites (in North Vancouver, 77% under new rules versus 96% in North Van under old rules)
• **Observations by court staff**	• Observations support findings of file review • Initial reduction in number of cases going to first appearance • Reduction in number of applications per file • Under new rules, reduction in number of cases going to trial but processing of cases delayed and more complicated than under old rules • Minimal avoidance of mandate to attend MPAS (few clients stated that they would take their case to a non-pilot location; court staff thought clients either did not file an application or saw a Family Justice Counselor to come to a consent; no clients mentioned to staff an intention to go to BCSC to avoid MPAS)
• **Follow-up interviews with MPAS participants**	• 2/3 participants used or planned to use alternatives to court (ADR) • 1/2 participants used or planned to use a combination of courts and ADR • 1/3 participants used ADR exclusively • Much less than 1/3 used courts exclusively • Reasons for using ADR: to maintain focus on children; increase awareness of how the process of separation was affecting their children; cost • Participants satisfied with ADR when they felt services from Family Justice Counsellor were very effective and/or when they achieved closure on all issues in dispute • Participants dissatisfied with ADR when they did not resolve issues, met with resistance, lack of cooperation, abusive behaviour from other party, or felt Family Justice Counsellor was ineffective • Participants went or planned to go to court for appropriate reasons: previously tried mediation or services of Family Justice Counsellor; other party was abusive, unresponsive, difficult to deal with, substance dependent or violent, they were the respondent; case involved a no-contact or restraining order • Participants satisfied with court when achieved sense of closure; dissatisfied when they had perceptions of incompetence or bias with justice system, disliked the outcome, or issues were unresolved
• Overall, positive changes because of MPAS: reduced and improved flow of cases in family court pilot locations and awareness in participating clients of full range of ADR options and how the separation process and dispute resolution choices affect children	

"Recommended Family Law Procedures", Report of Family Law Committee to the Chief Justice (Supreme Court), Consultation Draft, May 8, 2001	
Background	• Family Law Committee included Judges and Masters • Summer 2000, the Committee began review of how the court deals with family law cases • November 2000, the Committee identified attributes of an effective process, problems and solutions • January 2000, Chief Justice approved the Committee's proposal and asked it to propose an implementation design
Elements of Proposed province-wide family law procedure	• Early Judicial Case Conference presided over by a Judge or Master. identify issues, encourage settlement, and set a Case Management Plan with steps to be taken and time limits up to and including trial • Case Follow-up Plan in all Vancouver and New West cases; elsewhere if custody is a live issue, if Judge or Master recommends it, or if Chief Justice recommends it on request of a party or of court administrative officer; • Administrative tracking of cases by a Family Law Coordinator to ensure that the Case Management Plan is followed • Adequate resources for conciliation and legal assistance; for information to litigants; and for timely and effective custody and access assessments • Recommended implementation date of January 1, 2002 (unless Supreme Court Rules need to be amended)
Basic principles	• Well-being of children must be given high priority • Families are a fundamental part of Canadian society; break-up of relationship can be emotionally and financially difficult whether or not there are children • Family law procedure should take into account these two principles so there is public confidence in judicial process; process should recognize particular interest and needs of First Nations Peoples; process should recognize BC's multicultural society and dynamics of violence and power imbalances in family relationships • Supreme Court Rules' objective (to secure just, speedy and inexpensive determination of every proceeding on its merits) supports case management in family law cases, • New Westminster Family Law Project, operating under existing Rules, formalizes these principles and requires that a litigation plan be prepared and approved by the case management judge • The Vancouver Early Intervention Practice Direction (December 2, 1995), under existing *Rules*, states the purpose of early intervention: to identify legitimate issues, reduce unnecessary interim applications or time required for an application by clarifying issues, reduce actions set for trial, minimize length of trials by early identification of real issues, and reduce delay and costs of litigation
Elements of an effective family law procedure	• Early settlement of contested issues through early disclosure, and building settlement opportunities into the process • If agreement is not possible, issues should be resolved by the court through agreement or adjudication within a year, with minimum appearances, using written applications, teleconferences and videoconferencing where possible

	• Access to ADR, including conciliation/mediation attached to the court • Access to legal advice • Easy access to information about the court process, laws and resources • Continuity of judicial involvement where possible • Enhancement of knowledge and interest of family law judges conducting family law matters • Flexible scheduling for cases where early resolution is not in the best interests of parties or their children • Accessible court process through simple procedures
Areas of concern with existing procedures	
Interim applications	• Many are unnecessary as an early final resolution is available • Many are costly • Intended as a temporary solution after a summary hearing but many interim orders end up as the only court order made • Lack of court time, lack of preparation, late affidavits, poor time estimates, & scheduling conflicts cause adjournments • Can be inflammatory and increase conflict • Much information in affidavits is unnecessary and not always carefully drafted, creating inefficiency
Late settlements	• Most cases settle, though late – disadvantages include delay, financial and emotional cost
Delay in hearings or trials	• Causes for delay include adjournments, inadequate tracking system to monitor case adjournments which would enable proper prioritization, inconsistent prioritizing of family law cases throughout the province
Cases left in limbo	• Lack of finality in many cases; interim orders exist for years • Lack of finality cause enforcement problems or difficulties when variation applications are made
Lack of continuity in dealing with files	• Several judges or masters deal with a single file, resulting in delay, extra cost, frustration, inconsistent results • Some judges but not all seize themselves of cases; even if judge seized, problems such as rota commitments and judicial travel cause cases to be dealt with in abbreviated hearings at 9:00 and 4:00, or long delays
Lack of resources	• Limited information to litigants about the court process, including settlement options and the process of having judge or master decide issues; about the general legal principles court must apply; and about resources available • Virtually no court attached resource in conciliation/mediation services; child support guidelines assistance; legal information officers; duty counsel; legal aid assistance only to those on very limited income; interpreters • S.15 *FRA* custody and access reports are taking up to 2 years to complete
Unrepresented litigants	• Some cannot afford lawyers and are not eligible for legal aid • Some run out of money part way through or at the "variation" stage • Some prefer to represent themselves from the start or are dissatisfied with their lawyer's performance, costs or both

"Evaluation of the Family Justice Registry (Rule 5) Pilot Project: Final Report", BC Attorney General Justice Services Branch, Family Justice Services Division, November 2002	
Background	• December 1998, Ministry of AG introduced new Provincial (Family) Court Rules, to address accessibility, timeliness and complexity of the family court process; Rule 5 was introduced • Objectives of Rule 5: to reduced number and complexity of *FRA* trials; promote early settlement through ADR; increase appropriate use of non-adversarial dispute resolution • Details of Rule 5 o Parties meet with Family Justice Counsellor (FJC) for triage before first appearance before a judge o Triage appointment should be within 5 days after contacting triage office and on same day for urgent cases o At first meeting, FJC helps clarify issues and provides information about services and dispute resolution options o At any point, parties can request a referral to court o Family Case Conferences allow judge to mediate any or all issues and decide issues not requiring evidence o 5 pilot sites: Robson Square, Surrey, Nelson, Castlegar and Rossland; 6th site, Kelowna, added May 2001 o 5 comparison sites: Abbotsford, Richmond, North Vancouver, Victoria, Cranbrook; data also collected in Kamloops • Exemptions from Rule 5 o Applicant signs rights to child support over to government under BC Employment and Assistance legislation o Applicant seeks a restraining or no contact order under s.37 or 38 of *FRA* o Cases with urgent or exceptional circumstances
Evaluation objectives and approach	• Purpose of report is to assess changes attributable to Rule 5 o Identify the extent to which Rule 5 has been effective in terms of diverting FRA cases from court to ADR o For cases that go to court, identify the extent to which the courts operate more efficiently and effectively in terms of court usage, resolution of issues, means of resolution and level of client preparation after Rule 5 triage o Examine incremental changes that can be attributed to Rule 5 in isolation from the effects of other rules introduced at the same time o Compare pre- and post-implementation periods and between Rule 5 and non-Rule 5 sites o Performance indicators: number of applications for new orders for regular Rule 5 eligible cases diverted from the court system; number and type of claims of urgency; use of Family Case Conferences; average rate of court activity per Rule 5 eligible application; changes in proportion of claims of urgency; case settlement patterns; triage client satisfaction
	• Qualitative Research o 39 in-depth, semi-structured key informant interviews with judiciary, FJCs and court registry staff on *FRA*-related court process at each of the 12 sites from May 2001 to August 2002

	○ client satisfaction survey with 297 clients who had received triage ○ brief follow-up interviews with court registry staff during last phase of evaluation, May to August 2002 ○ researcher observations
	• Quantitative Research ○ Comparison of court usage, outcomes and number of *FRA*-related claims of urgency ○ Extensive review (2817 files & 3361 applications overall) of files with an *FRA* application at each court registry ○ Cross-referencing of case files to determine triage outcomes
Site characteristics	• Because of uniqueness of court registries, comparative analyses were based on aggregate results for Rule 5 pilot sites in comparison with aggregate results of non-Rule 5 sites • Kelowna site examined independently of other sites because of time differential for program implementation and introduction of second pilot project at the Kelowna Family Justice Centre
Highlights	• **Successful diversion from court to ADR** ○ Overall support by court and staff of Rule 5 as a process for diverting non-urgent family cases from court ○ Rule 5 has decreased court usage, evident from FJC tracking sheet and key informant interviews ○ Cases where no court activity was recorded after an application was filed increased in Rule 5 sites from 3% to 29%, as compared to non-Rule 5 sites where these "non-active cases" rose from 2% to 17% ○ However, a higher proportion of cases may have been diverted from the court; case files opened before evaluation period also went to triage but were not reviewed as part of this evaluation; also, staff at many Rule 5 sites routinely refer people to triage without parties first submitting an application ○ Claims of urgency slightly increased in Rule 5 sites since pre-implementation period (1% increase in Rule 5 sites and 4% decrease in non-Rule 5 sites)
	• **Court Activity/Use** ○ Rate of court activity per application down by 41% in Rule 5 sites and by 17% in comparison sites ○ Rate of court activity in Rule 5 sites decreased from a rate that was 32% higher than in non-Rule 5 sites pre-implementation, to a rate 5% lower, post-implementation ○ Triage helps parties narrow issues to be addressed in court ○ Court orders were the final outcome in fewer post-Rule 5 applications ○ No significant difference between Rule 5 and non-Rule 5 sites in overall use of Family Case Conference
	• **Benefits to Parties** ○ Triage clients are educated about family justice process and ADR; FJC helps parties clarify and narrow issues and consider other party's issues before court or a FCC; charged emotions can be diffused ○ Judges have more impact with parties at a FCC than through the adversarial process; the forum for discussion mitigates threats to family relationships; parties gain a clearer focus and reach some consent

"Comprehensive Child Support Services Pilot Project: Formative Evaluation Summary", BC Attorney General, Justice Services Branch, Family Justice Services Division, November 2002	
Background	• 1997 *Divorce Act* amendments introduced Child Support Guidelines • 1998, BC's *Family Relations Act* was amended to adopt Guidelines for use under provincial legislation • Guidelines aimed for greater consistency and predictability in child support awards, leading to less litigation • Feb. 2002, AG launched Comprehensive Child Support Service (CCSS) pilot project in Kelowna with federal funding
Pilot Project context	• 1998-2000 child support clerk service introduced in several locations to assist parents with information and calculation of child support amounts • Required steps prior to appearance in Provincial Court in Kelowna include Rule 5 triage meeting with FJC and Parenting After Separation program • Family Maintenance Program helps parents in receipt of assistance to obtain or change child support orders
CCSS services	• CCSS was developed to complement Rule 5 and other services by providing specialized child support services: o **Child Support Officer** (CSO) helps parents navigate procedures involved in child support orders/agreements; helps with income disclosure, calculation of child support amounts and court documents; helps reach agreement on child support using facilitated negotiation; manages case flow o **Debtor Assistance Program** offers financial counseling and help with debt consolidation; helps parents understand the priority of making child support payments and suggests financial strategies for realizing that goal; initially available through CCS on itinerant basis 2 days/month but with budget cuts, services provided by phone o **Family Maintenance Enforcement Program (FMEP) Outreach** – Kelowna pilot project provides information about FMEP and manages particulars of child support enforcement file; may be referred to this service by CSO if variation of child support or information on enforcement is needed o **Limited Legal Advice** – up to 3 hours of lawyers' time to review options, draft written agreements and prepare legal documents should they go to court; lawyer does not represent CCSS clients and does not appear for or with them in court; limited advice lawyer available one morning/week • CCSS operates at the Kelowna Family Justice Centre • CCSS may refer clients to other services at the Centre (FJC mediation , PAS and /or triage) • CCSS differs from services provided by child support clerks at other Rule 5 locations because it provides access to a broader range of services (including Debtor Assistance Program, FMEP Outreach and Limited Legal Advice); CSO also provides facilitated negotiation and case management not provided by child support clerks
Scope of CCSS project	• Parents who wish to establish or change child support arrangements are eligible, including those with Provincial or Supreme Court matters, those enrolled in FMEP or not, and those with reciprocal maintenance enforcement issues

	• Help for Supreme Court clients was limited at first, but training of the CSO in Supreme Court matters is now complete • CSO has no authority to cancel or change child support arrears – these cases are referred to court; this policy applies to other family justice services (e.g. FJC services and FMEP) throughout BC
Unique characteristics of CCSS	• Goal of CCSS - to help parents resolve disputes and speed up changes to child support orders and written agreements that are consistent with the Child Support Guidelines by providing: o an appropriate array of services for people dealing with child support issues o integration of services through co-location of services and case management by the CSO
Evaluation approach	• Evaluation objectives: 1. Determine the degree to which the CCSS helps people resolve child support issues 2. Determine the effectiveness of the integrated case management model of service delivery used by the CCSS 3. Identify effective practices and barriers in the implementation of the CCSS pilot • Data sources: o 45 case files maintained by the CSO o telephone survey of 32 individuals who had accessed the CCSS and whose cases had closed o interviews with 10 services providers (including the CSO, FMEP Outreach Officer, etc.) • Evaluation period: the first 6 months of the CCSS project implementation, February 1 – July 31, 2002
Case characteristics	• At end of evaluation period, 224 people had received brief services and 111 people had completed an intake interview o 44% self-referral; 16% referred by Family Maintenance Program; 13% referred by FMEP; 7% court registry referral; 4% FJCs; 2% Debtor Assistance Program; 2% private lawyers • 60% of cases reviewed were initiated by the parent responsible for paying child support • 73% of clients wanted to change an existing child support order or written agreement; 18% wanted an order or written agreement to change an informal agreement • 75% of CCSS clients indicated that child support was the only issue in their case
Key evaluation findings	• On Objective 1: o CCSS services helps parents resolve child support issues - almost 60% resolved these issues through CCSS; overall, clients were satisfied with information and services; o Two service gaps were identified: ability to fully assist Supreme Court clients, and lack of authority by CSO or FMEP Outreach Worker to change or cancel child support arrears; o 14 out of 15 clients who acted on CSO referrals were satisfied that they received the services they needed o After contacting CSO, parents were well advised of their options within CCSS o Facilitated negotiation is a valuable tool for resolving child support issues – all survey respondents who participated reached an agreement with the other parent during the session; though not used in many cases, CSO indicated that its use is increasing

	○ CCSS is effective in helping clients assess financial issues and re-calculate child support amounts – clarifies parents' responsibility; information helps keep cases out of courts; clients are better prepared
	• On Objective 2: ○ Case management model is successful in coordinating referrals and services for clients – CSO assesses client requirements, makes referrals to CCSS and other services, makes appointments for clients and follows up; 12 of 15 clients who acted on CSO referrals strongly agreed that CSO helped to coordinate services received ○ Results indicated that CCSS case management model facilitates timely resolution of child support issues – 94% of clients stated they were able to make an appointment with the CSO within a reasonable time
	• On Objective 3: ○ Service providers and clients identified a number of effective practices in the CCSS project – "one stop shop"; supportive internal environment; development of partnerships between participating programs; experienced service provided such as the CSO and FMEP Outreach worker; more personalized service; neutrality of service provider; non-confrontational approach ○ REMO cases face specific barriers in relation to geographic location – REMO cases involve parents living in different jurisdictions so the ability of the CSO to deliver services to both parties is limited because of the physical distance between parties

Federal Reports:	
"Report on Federal-Provincial-Territorial Consultations: Custody, Access and Child Support in Canada", ***Presented to Federal-Provincial-Territorial Family Law Committee, prepared by IER Planning, Research and Management Services, Fall 2001***	
Background	• Consultations on child custody and access were held in spring and early summer 2001 to gather the opinions of Canadians on best interests of children; roles and responsibilities of parents after separation or divorce; family violence; high conflict relationships; children's perspectives; meeting access requirements; and child support • 71 written briefs and 2,324 feedback booklets were received from organizations and individuals • 46 workshops involving 750 participants were held in every province and territory, with separate workshops for young people and Aboriginal people • 6 of the workshops, involving 97 participants were held in British Columbia (Vancouver, New Westminster, Abbotsford, Prince George, Kelowna and Victoria) on three issues - rules and responsibilities of parents after separation or divorce, family violence and meeting access responsibilities • Results of the consultations were considered by the Federal-Provincial-Territorial Family Law Committee in preparing the "Final Federal-Provincial-Territorial Report on Custody and Access and Child Support: Putting Children First" and formed part of the background to the report to Parliament by the federal Minister of Justice in 2002.
Best interests of children	• Currently, the *Divorce Act* does not set out best interests factors. [Note: Bill C-22 includes best interests factors.] • To identify factors that define a child's best interests, respondents first identified children's needs when their parents separate or divorce: stability and consistency; health and safety; children should not carry any burden; extended family; protection from conflict and court process; cultural and developmental needs; Northern and Aboriginal Communities; parents' access; support services • Factors that could be included in a best interest of the child section were divided into five categories: those relating to the children; to the children's relationships with others; to the past parenting of the children; to the children's future; and additional factors • Those in favour of listing factors in legislation said it would help judges and parents make better decisions, ensure concerns pertaining to children are systematically addressed, promote clarity and transparency in decision making and help harmonize federal legislation with that of provinces and territories

	• Those not in favour of listing factors in legislation said a list would limit judicial discretion, reduce legislation's flexibility and potential to evolve as it is used, and could increase conflict between parents and make rulings more complex; a "checklist" approach to meeting children's needs was seen as inappropriate
Roles and responsibilities of parents	• Factors identified as enabling good parenting after separation and divorce addressed nature of parents' relationship, recognition and validation of parenting abilities, access to children and to timely financial support, services and information support systems, legislative support, legal support • Terminology of "custody" and "access" [Note: Bill C-22 contains changes to terminology] o Reasons to change: easier for ordinary people to understand, reflects the concept of co-parenting, remove the implication that children are goods, emphasize parents' responsibility, strong impact on how courts and lawyers approach family law issues in future, avoid the impression of a winner and loser o Reasons not to change: unreasonable parents will continue to be in conflict regardless of terminology; better to address directly a key cause of conflict - child support; would undermine current body of case law, which increasingly takes account of violence and abuse, would not effectively address parent-child relationship problems • Majority of respondents favoured replacing old terminology and introducing the concept of parental responsibility • Themes in consultations on terminology: 1. Women's organizations had concerns re safety of women and children in situations of family violence and societal recognition of women's role of primary caregiver; supported options allowing sole custody and giving decision making power to the primary caregiver 2. Men's organizations had concerns that men be acknowledged as equally capable parents; supported a presumed 50-50 split of parenting responsibilities; in response to concerns about violence, advanced the belief that many allegations of violence are false and should not unduly influence the choice of new terminology 3. Some professionals and parents had concerns that current terminology encourages conflict and breakdown of access agreements; change in terminology may bring change in philosophy and practice; supported options that include the term 'parental responsibility' but not 'custody and access'. 4. Some lawyers opposed changing terminology; they were primarily concerned with preserving the clarity of the existing terminology and the integrity of existing case law • BC consultation (re services): o Participants suggested parents need training to recognize children's needs and develop stronger parenting skills (e.g., pre-marriage courses emphasizing communication skills, co-operation and anger management, as well as courses for separating parents). o Many noted that some services are available but not well advertised; services are fragmented with no particular way to find out what services exist and how to access them; they strongly suggested more education and improved services for parents focusing on children's needs. They suggested offering awareness programs through work and

	school and advertising in central locations (e.g., supermarkets and community centres), with advertising, videos and pamphlets to reflect cultural variations and sensitivities
Family violence	• Respondents said that legislation re family violence should include a statement that the best interests of children are the first priority; a clear definition of violence; and an allocation of burden of proof [Note: Bill C-22 includes some changes aimed at addressing these concerns.] • Specific issues to be addressed in any new legislation: mechanisms for investigating allegations of abuse; improvements to the family assessment process; and the role of the courts in incorporating family violence issues into custody and access decision making • Consultation asked for views on five legislative options: 1. No change to the current law 2. Include a general statement acknowledging that children who are victims of violence or who witness violence are negatively affected and that family violence poses a serious safety concern for parents and children 3. Make family violence a specific factor that must be considered when looking at children's best interests and when making parenting decisions 4. Establish a rebuttable presumption of limited contact and a limited decision making role for a parent who has committed violence against a family member 5. Restrict the impact of the "maximum contact" provision by moving the principle from section 16(10) of the Divorce Act into the section that deals with the "best interests of the child" • Respondents seemed to differ on what is in the best interests of children and were polarized between making the children's safety and or the children's access to both parents the priority o Those emphasizing safety supported a rebuttable presumption of limited contact and decision making input for the violent parent o Those who emphasized access to both parents supported a presumption of "maximum contact" except in situations when there is proof that the parent has been violent towards the children • BC consultation (regarding services): o Participants identified a need for considerable education for parents and children, as well as education for professionals in the legal system o Most said judges should be trained to understand the nature and effect of abuse and to take family violence into account but that the role of the courts should be minimized and solutions worked out through other DR mechanisms; others said evaluation tools should be developed, focusing on the potential for recurring violence o There were suggestions that family court judges should be aware of criminal charges and that child advocates should play a significant role in ensuring that children's best interests are taken into account

High conflict relationships	• High degree of conflict between parents is not in the best interests of the children since it draws emotional and financial resources away from them; however, respondents disagreed about how high conflict relationships should be managed • Some respondents said that high conflict was another form of family violence; others said that high conflict was a natural by-product of the divorce process • Consultation asked for views on five legislative options: 1. Include no specific provision; changes to address high conflict cases could have a negative effect on the majority of parents who co-operate; focus should be on making changes to support parents who can reach cooperative solutions 2. Law should permit judges concerned about ongoing, high conflict parenting disputes to set out in a court order detailed parenting arrangements to provide a regular routine and autonomy for each parent's time with children 3. Law should say that when judges are concerned about ongoing high conflict parenting disputes, they should be able to specify in the court order a dispute resolution mechanism that the parents are to use 4. Law should discourage arrangements requiring cooperation and joint decision making in cases of ongoing high conflict parenting disputes; law could say that these arrangements would not be in children's best interests 5. Law should include a combination of the above approaches • Respondents who supported addressing high conflict relationships through legislative changes generally supported a combination of options 2 and 3 or of options 2 and 4 • A combination of options 2 and 3 would involve detailed court orders for parenting arrangements coupled with mandatory DR through a designated judge (or other binding decision maker); supporters felt that this would reduce the likelihood of further litigation and conflict between the parents • A combination of options 2 and 4 would discourage the use of mechanisms that require cooperation and joint decision making but would still result in a detailed agreement; supporters of this option felt that forcing parents in high conflict situations into DR programs was unsafe and unlikely to be productive
Children's perspectives	• Factors identified that should affect the level of children's involvement in decision making about custody and access: children's age and culture, support and information available, children's relationship with each parent, emotional well-being and special needs and relationship between the parents • Some of the criteria to govern inclusion of children's perspectives: children are not forced to participate; children are protected from repercussions; hearings are private and recorded; children are directly informed of resulting decisions; professionals are informed, trained and have a code of conduct governing their behaviour
Meeting access responsibilities	• 2 main issues: denial of access and non-exercise of access, both equally detrimental to children's well-being • Tools such as parenting plans, parent education and counseling were proposed as ways of encouraging parents to meet their access responsibilities • Respondents recognized the difficulty of legislating solutions to the non-exercise of access; forcing an uninterested parent to have contact with children would not be in the children's best interests and might even be dangerous

	• Respondents suggested that to address the problem of denial of access, legislation could include reference to enforcement orders, alternatives to court-based solutions and provision of supervised access centres • Respondents said services were crucial to help ensure that parents meet their access responsibilities. In addition to services already offered , they suggested ways to improve services and provide new services through initial screening processes, mediation, mandatory review of parenting arrangements, supervised access centres and resource centres, enforcement officers (more efficient method of enforcement) and child advocate workers (to work with children, parents and the legal system) • BC consultation: Some participants said there should be more structured opportunities for supervised access; others noted that non-custodial parents need support (e.g., parenting courses) to help them understand their changing roles, relationships and responsibilities. Many supported parenting plans, particularly plans that do not involve going to court; some suggested "special masters" who can deal with family issues but practice outside of court as an alternative for access disputes
Child support	• **Child support in shared custody situations** o Differing opinions on how shared custody should be determined (In a shared custody arrangement, the court has broad discretion to order a support amount different from the Guidelines; the current "40% Rule" requires, for a shared custody arrangement, that each parent have custody or access for at least 40% of the year.) o Respondents pointed out that this links access and support, which may encourage access for the wrong reasons such as to reduce support payments; however, it is a reasonably easy test to apply o The possible alternative of using cost as the determining factor, respondents felt could address access situations where access costs are very high, even though time spent with the children is much lower than 40%. But respondents recognized that legislation would have to address the question of which costs were legitimate o In general, respondents supported transparent guidelines or a formula-based approach, on the basis that the existing guidelines have reduced conflict and litigation over child support amounts • **Impact of access costs** on child support amounts o Respondents felt that unusually high and unusually low access costs should be addressed in guidelines and legislation but recognized that as unusually low costs are generally a result of non-exercise of access, it would be difficult to compensate custodial parents without forcing access, which is not in the children's best interests o Re the undue hardship rule: some said it was too difficult to prove and the concept is not clearly defined; others felt that undue hardship should not automatically decrease child support amounts as high access costs may not reduce the custodial parent's expenses • **Child support for children at or over the age of majority** o Some favoured paying some or all child support directly to child at age of majority; would reassure paying parents that the money is being spent on the child

	○ Others not in favour of direct payment, pointing out that custodial parents still have expenses related to maintaining a home for the child, regardless of the child's age ○ Some support for increased transparency in spending of child support payments by custodial parents after the child has reached the age of majority ○ Some suggested that receiving parents and older children should have to show an ongoing need for child support beyond the age of majority; others saw this requirement as intrusive ○ Under some provincial and territorial legislation, the biological parent has the primary obligation to pay support while the spouse standing in the place of a parent does not; some suggested that the guidelines remove the primary obligation of the biological parent as biology does not always correlate with the role played in a child's life
Aboriginal perspectives	• Traditional Aboriginal view of children and their best interests is fundamentally different from that of other Canadians • Issues raised on custody and access: legislation must take into account Aboriginal culture and traditions; services must be linguistically and culturally appropriate and must be available in remote areas; alternative solutions must be considered that take into account the reality of life in remove, often cash-poor communities
Services	• Some services necessary in all family situations: parenting courses, child peer reference opportunities and help in developing agreements (e.g., mediation, family counseling and other DR) • Other supplementary services are needed for families with a high degree of conflict or physical violence: behavioral counseling and courses (e.g., anger and addiction management), violence-related counseling, court-based mechanisms for developing agreements, appropriate enforcement mechanisms and supervised access and exchange facilities • Existing and new services should be well publicized; timely; focus on early intervention; provide follow up after a given period of time; accessible and free or low-fee

"Final Federal-Provincial-Territorial Report on Custody and Access and Child Support: Putting Children First", Federal-Provincial-Territorial Family Law Committee, November 2002	
Background	• Report reviews research, surveys, previous studies and experiences of other jurisdiction; builds on public consultation and research; contains suggestions regarding custody and access legislation and family law services and processes related to individual, professional, judicial and government action • Report is the result of the Custody and Access Project of the Federal-Provincial-Territorial Family Law Committee initiated at the request of Deputy Ministers Responsible for Justice with participation of federal, provincial and territorial governments; the committee was also asked to review the child support guidelines • Extensive research and consultations with family law professionals, parents, advocacy groups and interested Canadians informed the report (e.g., "Report on Federal-Provincial-Territorial Consultations: Custody, Access and Child Support in Canada" (2001)) • The project recognized the importance of the federal, provincial and territorial governments working collaboratively, because of their shared jurisdiction over family law issues, and the need to address both legislation and services for effective family law reform
Recommended principles	• Ensure that the needs and well-being of children come first • Recognize that no single way of parenting after separation and divorce will be ideal for all children • Support measures that protect children from violence, conflict, abuse and economic hardship • Recognize that children and youth benefit from the opportunity to develop and maintain meaningful relationships with both parents, and with grandparents and other extended-family members when it is safe and positive to do so • Recognize the contributions of culture and religion in children's lives • Promote non-adversarial dispute-resolution mechanisms and retain court hearings as mechanisms of last resort • Provide legislative clarity to legal responsibilities of caring for children • Recognize the overlapping jurisdictions in custody and access matters in Canada and make efforts to provide coordinated and complementary legislation and services
Recommended objectives	• Focus parents, professionals and services to better serve children's needs and interests • Reduce the negative impact of conflict on children and promote healthy models of dispute resolution • Support positive parental, extended family and cultural interactions with the child • Provide clearer, more predictable and understandable responses to family justice issues
Custody and Access Reform	
Legislation	• **Consistency of legislative approach:** *Divorce Act* and at least 13 provincial and territorial statutes all provide that the fundamental principle is the best interests of the child and all use the term custody but not all use it in the same way;

	substantive provisions and terminology vary Recommendation: ensure that children are treated similarly and provided similar protection in Canada by providing relative consistency in laws affecting custody, access and child support
	• **Defining "best interests**": Only some statutes list specific factors of best interests; *Divorce Act* does not Recommendations: custody legislation should contain explanatory non-exhaustive list of criteria for parents, judges and others involved in decision-making process; any list of best interests criteria should ensure that the child's best interests remain the foremost consideration in custody and access decision making
	• **Terminology:** Current terminology of custody and access has been criticized for promoting conflict and focusing on parents' rights rather than on the child; others argue that the current terminology is neutral, flexible and well understood Legislative options included in the public consultation paper: 1. Keep current terminology 2. Clarify current terminology and define custody broadly (non-exhaustive list of areas that make up custody in clear and understandable language) 3. Clarify the current terminology, define custody narrowly and introduce " parental responsibility" (custody would be redefined to mean residence only and would be one just part of parental responsibility) 4. Replace the current terminology and introduce the new term and concept of parental responsibility 5. Replace the current terminology and introduce the new term and concept of shared parenting Recommendations: o legislation should not establish any presumptive model of parenting after separation, nor contain any language that suggests a presumptive model of parenting; the fundamental and primary principle of determining parenting arrangements must continue to be the best interests of the child o if legislative terminology is changed or clarified, any amendments should be child-centred, focus on parents' responsibilities to understand and meet their children's needs, and promote the positive and safe involvement of both parents o Committee believes that options 2, 3 or 4 could meet these needs
	• **Family Violence:** *Divorce Act* should explicitly address family violence issues; the current emphasis on maximizing contact must be appropriately balanced against the need to protect children from family violence Recommendations: o there should be no legislative presumptions about the degree of contact a child has with parents o best interests factors should include any history of family violence and the potential for family violence, as well as facilitating contact with both parents when it is safe and positive to do so o governments should work to strengthen supports to families exposed to family violence including crisis counseling programs and counseling programs for children exposed to family violence

	• **High-Conflict Relationships:** Best approach to high-conflict cases is to find better ways to identify them, intervene earlier, and provide services to help parents focus on their children's needs and improve their communication and conflict resolution skills • Recommendation: high-conflict areas should be addressed through a mixture of services and procedural supports to minimize the negative impact of conflict on children and families
	• **Addressing Children's Perspectives:** Desirability of giving the child a voice in the decision-making process must be balanced against the need to shield the child from parental conflict and prevent the child from becoming embroiled in it • Recommendation: each jurisdiction review its legislation, procedures and services to ensure that parents and courts have access to information on the child's perspectives; the information is obtained from the child and communicated to the parents and court where necessary in a way that is appropriate to the child's best interests, age and maturity and in a way that does not make the child feel responsible for the custody decision
	• **Meeting Custody and Access Responsibilities** -Recommendations: o recognizing the breadth and complexity of the issues involved in child custody and access enforcement and parental child abduction cases, further detailed work should be undertaken o the Divorce Act and provincial/territorial legislation should give jurisdiction over custody and access to the court where the child habitually lives, with certain consent and safely-based exceptions and taking into consideration applicable child custody enforcement legislation and *The Hague Convention* on child abduction
Service options and responses	• **Public and professional information and education:** Give families and professionals information on legal issues, child development, dispute resolution options, methods of communication and resources; Teach parents skills and techniques to improve co-parenting abilities to help families cope with emotional trauma and make informed choices • Recommendations: o information on existing and new laws and services should be disseminated through a variety of communication modes, accessible to all families with children (governments have been active recently in providing parent information services and programs, e.g. toll-free phone lines booklets, pamphlets, websites) o governments should support parent education that is broadly accessible and meets linguistic, cultural, geographic and general parenting, legal and process information needs o professionals working with families during and after separation and divorce should be supported to engage in continuing education and training in child custody and support law, family violence issues, dynamics of family separation and divorce and the effects on children o the *Inventory of Government-Based Services That Support the Making and Enforcement of Custody and Access Decisions* (inventory of custody and access services currently provided by provinces and territories) should be maintained and updated periodically

	• **Dispute Resolution** - Recommendations: o governments and professionals should work together to support development of a broad spectrum of dispute resolution services to parents to help identify and narrow disputed issues o mediation should not be made mandatory since the basic premise of mediation is a voluntary, consensus-based decision making o jurisdictions should encourage development of collaborative family law practice o given the range of dispute resolution mechanisms that have been developed, current requirements in legislation may be too narrow; family law legislation should require lawyers to advise clients of the full range of DR o courts should make appropriate use of judicial and non-judicial settlement approaches to avoid the hardening of positions and to promote early settlement and narrowing of issues in dispute o case management system should provide for expedited access to judicial decision making where it is in the best interests of the child to have the matter dealt with on an urgent basis o orders should be worded clearly and consistently to ensure that the parties understand their obligations and the orders can be enforced o procedures should allow for expeditious variation, by consent, of custody, access and child support orders without a court hearing
	• **Enforcement -** Recommendation: o further research should be undertaken to identify the most effective ways to address the problems of access denial and failure to exercise access, and to develop and assess new remedial approaches
	• **Legal Aid -** Recommendation: o governments should continue to work at improving components of the legal system that are critical to families' access to the legal system to resolve family breakdown issues, such as family legal aid
	• **UFC -**Recommendation: o the federal government should work with jurisdictions to establish UFCs where there is a request; people serving in a specialized family court should have expertise in family law issues
Recommendations for Research and further work	• There should be a continued national emphasis on research and evaluation to monitor trends and the impact of reforms in law and services • Provinces and territories should review their legislation on establishment and recognition of parental status and entitlement to custody and access on the birth of a child, with a view to identifying any issues that require a legislative or service response and making recommendations in the future • Dialogue and research should continue in order to address diversity and aboriginal issues with respect to family law

Child Support	
Shared Custody	Recommendations: • The 40% rule should not be changed, as no demonstrably better alternative has been found despite criticism that it links child contact and support (when a parent has access or physical custody of a child for 40% or more of the year, the court has broad discretion to order a support amount different from the Guidelines); but the Guidelines should be more specific as to how to determine that the 40% test has been met • To improve certainty and predictability and maintain flexibility, current factors for determining support in shared custody situations should be replaced by a presumptive formula: i.e., the difference between the table values for each parent, unless that amount would be inappropriate based on, for example, how parents share the child's expenses
Extraordinary expenses	Recommendation: • The term "extraordinary" in section 7, should be defined in the Guidelines to increase predictability and certainty
Support past the age of majority	Recommendations: • No change should be made to the provisions re eligibility for support of a child at the age of majority • To ensure transparency and accountability, Guidelines should require recipients of support for children over the age of majority to disclose information re the child's ongoing eligibility of support
Undue hardship	Recommendation: • No changes should be made to deal specifically with high access costs (currently, judges may order a different amount based on undue hardship); these situations should be dealt with on a case-by-case basis and any accommodation appropriate to a particular case should be addressed as part of a custody and access order
Obligations of one standing in place of a parent	Recommendation: • No changes should be made to the Guidelines provisions re the obligations of those who stand in the place of a parent (currently, such a person may have child support obligations similar to a natural parent)
Updating tables	Recommendation: • Child support tables should be updated every five years or more often if there are changes to federal, provincial or territorial taxes that would have a major impact on the table amounts

Other Jurisdictions' Materials – Alberta	
"Report of the Unified Family Court Task Force", Report and Recommendations and Executive Summary, Minister of Justice and Attorney General, Government of Alberta, December 2000	
Background	• Unified Family Court Task Force consists of AB judiciary, lawyers and government officials • Task Force's mandate is to consider how access to courts could be improved for family-law litigants
Existing family-law court system	• Court of Queen's Bench of Alberta and the Provincial Court of Alberta have jurisdiction in family-law matters • All judges of Queen's Bench (13 major centres) deal with family law • Provincial Court (75 centres) has jurisdiction in Calgary and Edmonton area by the specialized Family and Youth Division and elsewhere by the Provincial Court as a whole • Each court has exclusive jurisdiction in some areas(divorce and division of matrimonial property in Queen's Bench and young offenders and child welfare in Provincial Court), and overlapping jurisdiction in others (spousal and child support and child custody and access) • Result is that no single court can deal with all legal problems of breakdown of a marriage or family relationship • Services provided through courts include parental education (seminars, workshops in "parenting after separation" and "communication in conflict"); information, guidance and assistance to family-law litigants (Family law Information Centres and Family Court services in Edmonton and Calgary, Family Maintenance Program administered through 26 district offices); ADR (mediation services, case management and judicial dispute resolution in Queen's Bench); information and expert advice for judges; legal aid; Native counseling services
Services provided through UFCs in other provinces (Manitoba, Newfoundland, Ontario, New Brunswick, Nova Scotia and Saskatchewan)	• Intake services: document checking, help with document completion, referral to mediation or community services • Help with court process (in NS, Nfld and Sask) • Mediation services, usually for custody, access and support matters • Information brochures and guides to procedures • Information for parents: seminars on separation, divorce and community resources, impact on children • Legal services vary in scope, eligibility criteria, mode of provision • Supervised access and transfer: (Nfld: paid access, except first hour, at courthouses; Man:: offsite supervision by community agency with waivable $5/hr fee; Ont: supervised access through external service providers, payment on sliding scale; NS: is about to start such a service; Sask: supervised access and exchange) • Assessments and home studies: available on court order in Nfld (must be paid for) and New NB; children's lawyer in

	Ont. does investigation reports through social workers at $3000-$5000 per investigation; in Man., court ordered assessment reports prepared by social workers at no cost to litigants if there are custody, access or guardianship issues and though not generally available, government will pay for psychological testing where parties cannot; in Sask., custody and access assessments can be ordered at pre-trial conferences
Recommendation	• A single court, "UFC", as well as family law reform should be established expeditiously in Alberta to exercise all family-law jurisdictions and powers and to provide essential services to people in family-law disputes
Principles for a family-law court system	• Application of law while minimizing damage to individuals • Encouragement of alternative means of dispute resolution • Geographic accessibility within a reasonable time and distance • Economic and procedural accessibility
Structure	• UFC should be a new Family Division of Court of Queen's Bench
Judges	• Judges should be federally appointed • Criteria for appointment: o Interest in family law and desire to serve in the UFC o Common sense, patience and problem-solving skills o Understanding of human nature and motivations o Community involvement • Appointment process should include personal interviews & consultation with the Provincial Government • UFC judges should be specifically appointed to the Family Division of the Queen's Bench but judges of both Family Division and general division should be able to exercise all jurisdictions and powers of both divisions • Legislation should provide that the bulk of judicial work of the Family Division be done by judges appointed to that division
Jurisdiction	• UFC should have exclusive jurisdiction over: o Marriage (including capacity to marry and solemnization of marriage) o Divorce and nullity of marriage o Judicial separation o Spousal support o Division of matrimonial property o Support, custody of and access to children; enforcement of support, custody and access orders; guardianship of children; (persona and property); adoption of children; parentage of children child welfare o Protection and restraining orders, including orders under the *Protection Against Family Violence Act* o Protection of children under the *Child Welfare Act* and the *Protection of Children Involved in Prostitution Act* o School attendance

	• UFC should have no jurisdiction over:
	  o Young Offenders (jurisdiction should be reviewed no later than 2 years after establishment of UFC; services should be available to young offenders where relevant; provisions should be made for information sharing between Youth Court and UFC)
	  o Family violence (adult criminal charges)
	  o Dependent adults
	  o Wills and estates
	  o Family relief

Practice and procedure	• Simpler and less formal procedures should be applied consistently throughout province to:
	  o Ensure timely access to court and timely resolution of disputes
	  o Enable oral evidence where appropriate and a feeling of a fair hearing
	  o Minimize costs and avoid unnecessary court proceedings
	  o accommodate the needs of different participants in family-law litigation

Staffing	• UFC should be headed by an Associate Chief Justice of the Family Division • One official should have responsibility for administration of the court throughout the province • The court should have adequate staffing, with personnel trained to facilitate the objectives of UFC • Court facilities should be shared, in centres where people have access to justice generally
Technology	• Family law and youth courts should have one computer system, or compatible computer systems to allow information sharing about individuals involved in family law or young offender matters and to collect common statistical information for planning of court resources and operations • Video and teleconferencing should be used, to reduce costs and travel time for litigants, lawyers, judges and court staff
Early services	• Court imposed services should be a last resort • Certain services should be available as early as possible to people who come to family law court: education of parents; services relating to access to courts; special counseling, legal and other services for the benefit of children; services that facilitate access to children; assistance for the court; legal services; ADR; judicial education
Transition	• Changeover to the UFC must be planned and orderly • Business plan should include a plan for judicial and other resources required and designed to achieve the goal of establishing a UFC that will serve the whole province
Preconditions	• Provincial Government must be prepared to commit financial and administrative resources to the UFC • Federal Government must be prepared to commit the necessary judicial resources
Ongoing review	• Regular review of jurisdictions, practices, procedures and resources

"Alberta Family Law Reform Stakeholder Consultation Report", Government of Alberta, May 2002	
Background	• Special interests groups, professionals and interested members of the public reviewed and commented on Alberta Justice's proposed changes and provided input on issues that required more deliberation • Report reflects results of consultations from January to April 2002: written submissions from 409 individuals, 14 from lawyers, 23 from provincial organizations; 4 focus groups; public opinion poll of 800 randomly selected Albertans; 2 technical roundtable sessions with family law experts including judges; 2 roundtable sessions with representatives of non-legal professional organizations and associations with a special interest in family law
Key Findings	
Spousal support	• Alberta law and federal legislation should be consistent re spousal support orders • Courts should consider the non-legal obligations of a person or persons when determining spousal support • Courts should consider but not be bound by spousal agreements – consistent with *Divorce Act* • Disagreement on whether the court should have the power to grant final spousal support orders • A spouse's new live-in relationship should be grounds for variation of a support order but not automatic termination • Spousal support laws should only apply when a relationship has broken down and a couple can no longer live together
Child support	• Most participants believed support of a child 18 years or older should be voluntary, not legislated • If child support obligation were to continue: o It should be limited to situations where the child is not able to be independent o Support for adult children who are physically or mentally ill or seriously disabled received strongest endorsement o Most believed that support for adult students should end on the completion of high school o A significant minority believed support obligations should be evaluated on a case-by-case basis, with considerable emphasis on a child's specific needs and the parents' ability to provide support • Most believed there should be no distinction between intact and nonintact families in determining whether support should continue after a child becomes 18 • Parents should not be legally obliged to support a child under the age of 18 who lives independently away from home unless the child's departure is a result of abusive or unhealthy conditions • Most favoured entrenching federal child support guidelines in Alberta law • A small majority felt child support guidelines should apply to persons standing in the place of a parent • The court should be given discretion in apportioning support obligations among two or more payors • Biological or adoptive parents should always have the primary support obligation • No consensus on the definition of a parent-like relationship • In determining child support, parental agreements should be considered but not be binding on the court

Guardianship, custody and access	• The public favoured special provisions for non-intact families in testamentary guardianship legislation; but, most family law experts believed there should be no distinction between intact and non-intact families • Guardianship of children of a deceased spouse should automatically go to the surviving parent/guardian unless the parent/guardian is incompetent • A mechanism for the easy transfer or delegation of guardianship on a temporary basis should be developed • Should be consistency in provincial and federal legislation regarding parenting arrangements • Access applications by non-guardians should not be restricted • List of people who would be eligible to apply for access and access restrictions proposed by Alberta Justice were considered appropriate • Disagreement over whether grandparents should have special access privileges • No consensus on the issue of linking child access and support; but majority believed linking the two was inappropriate • Need for more clarity and simplicity regarding the release of children's records to non-custodial parents
Court jurisdiction and powers	• Should retain the option of judicial separation to divorce • Participants were split on whether to retain the right to sue for breach of promise to marry but a slight majority favoured retention; if retained, claims should be restricted to expenses • A surviving spouse in an intact relationship should have the same division of matrimonial property rights as a surviving spouse whose relationship has broken down (outline in the *Matrimonial Property Act*) • Provincial court's jurisdiction in family law matters should be expanded as broadly as possible • Harmonization of Alberta laws with federal legislation was encouraged • A judge alone (as opposed to judge and jury) should hear family law cases
Personal relationships	• Most participants agreed the law should consider two people in a committed relationship if: o They have lived together for a minimum of three years, or o They live together and have an adopted or biological child as a result of their relationship, or o They signify by contract, registration or some other written form, that they are in a committed relationship • Conjugal model was supported by majority of participants; but some believed only married people should be given legal benefits and obligations; some believed that same-sex relationships should not be recognized in family law • A small majority did not support rights and obligations to persons in committed platonic relationships • If an Interdependent Relationships model were introduced, most participants agreed persons living together in a platonic relationship should be required to take some active step to declare the existence of their relationship – i.e., "opting in" - requiring two persons to sign an agreement or officially register their interdependent platonic relationship • Most participants found the proposed definition of an interdependent relationship ("emotional interdependency), and proposed factors for determining interdependency, appropriate