



MEETING SD 66-20-25

STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**WEDNESDAY JUNE 11, 2025
DET'ANCHOGH KÚÉ - EAGLE ROOM
9:00 AM**

AGENDA

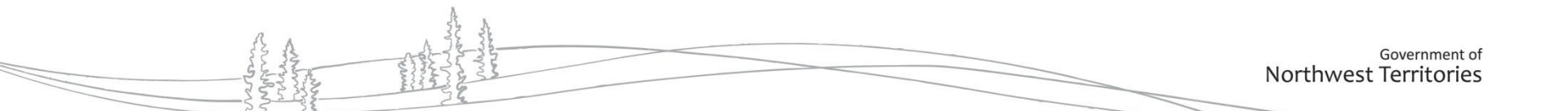
1. Call to Order
2. Prayer/reflection
3. Review and Adoption of Agenda
4. Declarations of Conflict of Interest
5. In Camera Matters
 - a) Confidential correspondence
 - i. 2025-05-26 Honourable Premier
 - b) Bill 23/Bill 24
6. Public Matters
 - a) Public hearing with Minister of Justice on Bill 23: An Act to Amend the Children's Law Act & Bill 24: An Act to Amend the Family Law Act
7. In camera matters
 - a) Debrief
 - b) SCOSD Workplan
8. New Business
 - a)
9. Date and Time of Next Meeting:
 - a) TBD
10. Adjournment



Department of Justice

*An Act to Amend the Children's Law Act
& An Act to Amend the Family Law Act*

June 11, 2025



Family Law in the Northwest Territories

- Family law in Canada is an area of shared jurisdiction between the federal, provincial and territorial governments.
- The federal *Divorce Act* applies to married couples who are divorcing; territorial legislation applies to separating unmarried or common-law couples, and married couples who are separated but not divorcing.



The Northwest Territories *Children's Law Act*

- The *Children's Law Act* (CLA) is a piece of foundational family law legislation in the Northwest Territories.
- This Act applies to custody, access¹ and support matters for the children of separating unmarried or common-law couples and addresses parentage and guardianship.
- Bill 23 seeks to amend the CLA.

¹ current terminology used throughout.

The Northwest Territories *Family Law Act*

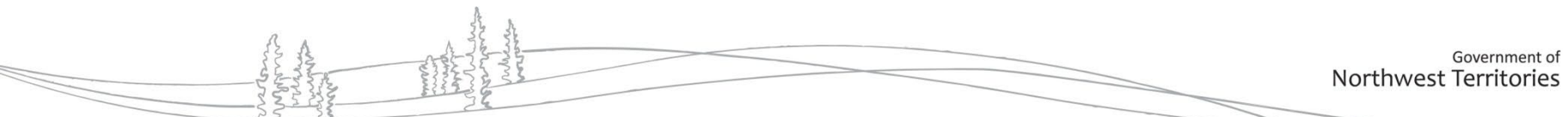
- The *Family Law Act* (FLA) is a piece of foundational family law legislation in the Northwest Territories.
- This Act sets out the rights and responsibilities of married and common-law spouses before and after separation. It also deals with spousal support and property division after separation or divorce.
- Bill 24 seeks to amend the FLA.

Amendments to the CLA & FLA - Purpose

- Bills 23 & 24 are proposed to reflect amendments made to the federal *Divorce Act* in 2021. The Bills are intended to:
 1. Update the best interests of the child test and related provisions.
 2. Introduce new terminology that emphasizes parenting and promotes the best interests of the child.
 3. Replace the current “custody” and “access” orders with “parenting” and “contact” orders.

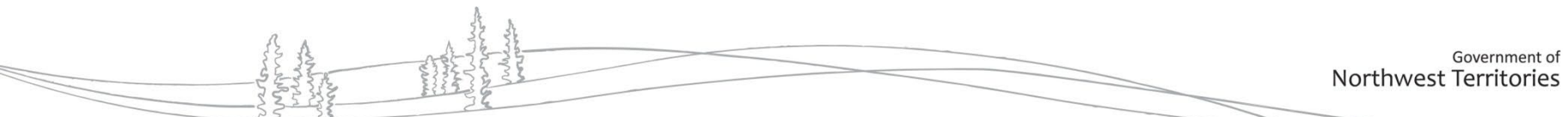
Amendments to the CLA & FLA - Purpose

- Bills 23 & 24 are proposed to reflect amendments made to the federal *Divorce Act* in 2021. The Bills are intended to:
 4. Add new provisions to address family violence.
 5. Clarify the legal process for relocations.
 6. Describe new duties for parents, legal advisors, and the courts.



Amendments to the CLA & FLA - Purpose

- Bills 23 & 24 also propose some changes not related to the *Divorce Act*. These proposals are intended to:
 7. Allow for the collection, use and disclosure of personal information by and to the Child Support Recalculation Service.
 8. Amend ss. 62 & 75 to allow for creating family law rules of court under the *Judicature Act*.



1. Update best interests of the child test

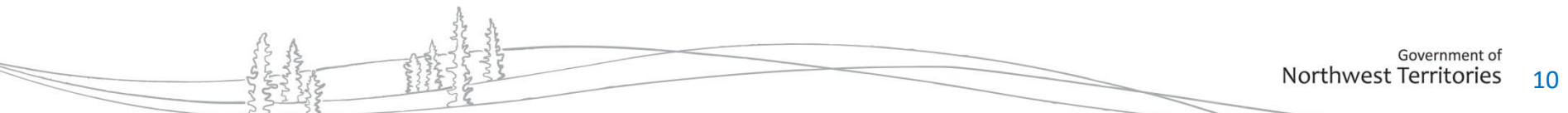
- Increase guidance to the courts on how to determine the best interests of the child when making custody and access decisions.
- Update list of factors for consideration under current s. 17 (new s. 26), and introduce 'primary considerations' for safety, security, and well-being:

1. Update best interests of the child test

- ⇒ Require courts to consider Indigenous upbringing and heritage when assessing culture and language.
- ⇒ Require courts to consider specific needs of the child (e.g. age, maturity, temperament, special needs, disabilities, etc.)
- ⇒ Require courts to consider 'any civil or criminal proceedings, orders, or conditions' pertaining to a person seeking custody/ access 'that are relevant to the safety of the child.'
- ⇒ Remove the requirement for courts to consider the effects of a change in residence (new relocation proposed.)

1. Update best interests of the child test

- Include the *Divorce Act*'s clarification that a child is to spend as much time with each parent as is consistent with the child's best interests.
- Affirm that the allotment of parenting time must be based only on the child's best interest and not on a presumption in favour of a particular parenting arrangement (ex. equal parenting time.)



2. Introduce new terminology

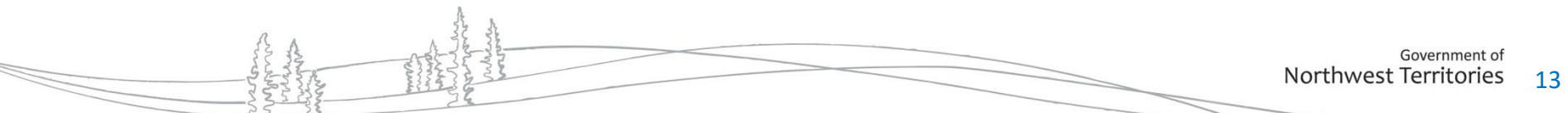
- Terms like “custody” and “access” are often associated with property ownership and reinforce a winner-loser mentality that contributes to high levels of conflict often present in family law.
- New terminology from the *Divorce Act* is child-centred, emphasizes parenting, and promotes the best interests of the child:

2. Introduce new terminology

- ⇒ “Parenting time” is the time that someone in the role of a parent is responsible for a child and includes the time when the child is not physically in the care of that person
- ⇒ “Decision making responsibility” is the responsibility for making significant decisions about a child’s well-being related to the child’s health, education, language, religion and significant extra-curricular activities.
- ⇒ “Contact” is the time that a non-parent spends with a child; for example, visiting time with a grandparent.
- ⇒ “Parenting orders” and “contact orders” will set out the parenting time and decision-making arrangements for a child.

3. Replace “custody/ access” orders with “parenting/ contact” orders

- Parenting orders will allow the court to set out and assign decision-making responsibility and parenting time (currently custody and access.)
- Parenting orders will retain much of the substance of custody and access orders. New provisions will further strengthen the best interests of the child principle:



3. Replace “custody/ access” orders with “parenting/ contact” orders

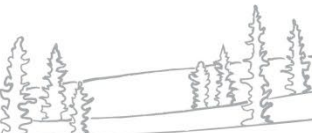
- ⇒ Allow for a non-removal clause to be included in parenting orders that will prohibit the removal of a child from a geographical region without the written consent of the other parent or a court order.
- ⇒ Facilitate communication between a parent and a child outside of that person’s parenting time.

3. Replace “custody/ access” orders with “parenting/ contact” orders

- ⇒ Clarify that a person with parenting time or decision-making responsibility is entitled to request and obtain information about a child’s well-being from another person who has parenting and decision-making time with the same child or a third party such as a doctor, school or others.
- ⇒ Allow for a parenting plan to be included in the order in which the parties have agreed to a parenting time, decision-making responsibility or contact arrangement.

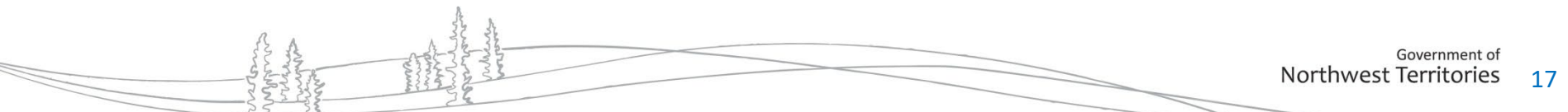
3. Replace “custody/ access” orders with “parenting/ contact” orders

- Non-parents who wish to spend time with a child and who are experiencing barriers in doing so will be able to seek leave of the court to apply for a “contact order”.
- Contact orders will address situations in which a relationship breakdown causes strain resulting in the former spouse being unable or unwilling to facilitate contact with children and special people in their lives such as grandparents.



4. Add provisions to address family violence

- New provisions will provide increased guidance on what constitutes family violence and consideration in parenting decisions with the goal of providing greater protections for families and children.
- They will allow for similar protections to be provided regardless of their parents' marital status and whether they are seeking a separation or divorce.



4. Add provisions to address family violence

- ⇒ Add the definition of 'family violence' from the *Divorce Act*. It is research and evidence-based and includes non-criminal behaviour like coercive and controlling behavior, financial abuse, neglect, stalking, sexual abuse, and the indirect exposure of a child to family violence as a witness.
- ⇒ Introduce a non-exhaustive list of factors specific to family violence [new s.26(4)] courts must consider when assessing best interests of the child.
- ⇒ Require courts to consider any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child.
- ⇒ Add provisions that allow for supervision during parenting time or during the transfer of the child from one person to another.

5. Clarify the process for relocations

- The current Act does not reference relocation except to include change of residence as a factor in determining the best interests of the child.
- Amendments include a relocation framework as was introduced in the *Divorce Act* to address moving with a child following a separation.



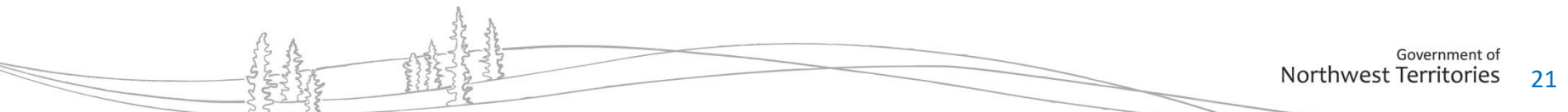
5. Clarify the process for relocations

- ⇒ Add the definition of 'relocation' from the *Divorce Act*. It is child-centred and requires relocation to be considered in terms of its impact on the relationship between the child and significant persons in the child's life.
- ⇒ Require mandatory notice that will apply any time a parent moves, or a parent moves with a child. Requirements will vary depending on distance.
- ⇒ Introduce a process that requires a person objecting to a move to do so by way of a court application or a form prescribed by regulations - courts will only need to intervene if there is a disagreement.



5. Clarify the process for relocations

- ⇒ Introduce a non-exhaustive list of factors specific to relocation [new s.38.7(2)] courts must consider when assessing best interests of the child.
- ⇒ Outline specific burdens of proof that will require parents to demonstrate why a relocation may or may not be in the child's best interests.



6. Describe new duties for parents, legal advisors, and the courts

- A specific list of duties for parents, legal advisors, and the courts based on duties that were added to the *Divorce Act* in 2021.
- Includes obligation on parties to uphold the best interests of the child principle, to protect children from any conflict that arises from a proceeding, and to comply with all orders, including providing accurate and up-to-date information as required.



6. Describe new duties for parents, legal advisors, and the courts

- Require the parties to try to resolve disagreements through family dispute resolution processes (where appropriate).
- Require legal advisors to encourage their clients to utilize dispute resolution processes where appropriate and to inform clients about family justice services.



6. Describe new duties for parents, legal advisors, and the courts

- Require the courts to identify and consider any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child, and which may conflict with a parenting order.



7. Child Support Recalculation Service & Personal Information (non-*Divorce Act* change)

- Allow the Service to collect personal information about the parties from the Maintenance Orders Enforcement Program (MOEP) or Interjurisdictional Support Orders Program (ISOP) for the purposes of the Service;
- Allow the Service to disclose personal information about the parties without their consent in certain circumstances for the purposes of the Service;

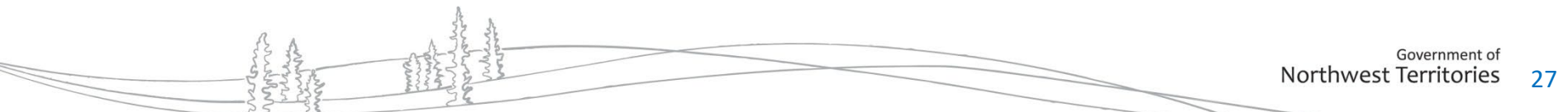
7. Child Support Recalculation Service & Personal Information (non-*Divorce Act* change)

- Allow the Service to disclose personal information about the parties to the MOEP or the ISOP in certain circumstances for the purposes of those programs;
- Make consequential amendments to the *Maintenance Orders Enforcement Act* and *Interjurisdictional Support Orders Act* to allow the MOEP and ISOP to disclose personal information for the purposes of the Service.



7. Child Support Recalculation Service & Personal Information (non-*Divorce Act* change)

- Allow the Service to access family court files without the consent of the parties or leave of the court for the purpose of recalculating child support amounts.



8. Sections 62 & 75 amendment (non-*Divorce Act* change)

- Amending section 62 of the FLA, and 75 of the CLA will allow greater flexibility for the judiciary to create family law rules of court under the *Judicature Act*.

Access to Information and Privacy

- Recognizing the sensitivity of family law court file information, and in light of the ‘open court principle,’ specific references to limiting court file access have been added to proposed amendments [ss 16.1, 44-47].
- The proposed amendments are intended to balance the public requirements of justice with the private nature of family law disputes, and to prevent malicious access to and use of court file information.



Questions/Discussion

