



Plain Language Summary for Bill 23: *An Act to Amend the Children's Law Act*

The Minister of Justice has introduced Bill 23: *An Act to Amend the Children's Law Act* in the Legislative Assembly. In addition to other amendments, this bill will bring the Northwest Territories' *Children's Law Act* (the "Act") in line with changes to the federal *Divorce Act* that came into force in 2021 via Bill C-78. Family law in Canada is an area of shared responsibility between the federal, provincial and territorial governments.

There was an effort to respond to the federal changes and to amend territorial family law legislation in the 19th Legislative Assembly, however a bill was ultimately not introduced as more time was required to incorporate feedback received from the Department of Health and Social Services, the family law bar of the Law Society of the Northwest Territories, and the judiciary. The feedback received has helped to inform the current bill.

The amended Act will:

1. Update the "best interests of the child" test and related provisions.
 - The Act will provide increased guidance to judges on how to determine the best interests of the child when making custody and access decisions, and to clarify a child is to spend as much time with each parent as is consistent with the child's best interests.
2. Introduce new terminology that emphasizes parenting and promotes the best interests of the child.
 - Changes to the Act will replace language such as "custody" and "access" with new terms from the *Divorce Act* that is child-centred and emphasizes parenting.
 - "Parenting time" is the time that someone in the role of a parent is responsible for a child (including when the child is at daycare or school). People with parenting time can make day-to-day decisions about the child.
 - "Decision-making responsibility" is the role of 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 the current “custody” and “access” orders with “parenting” and “contact” orders.
 - “Parenting” orders will replace “custody” orders with a few key changes. New parenting orders will allow for non-removal to address the risk of abduction. They will also allow for communication between a parent and a child outside of that person’s parenting time. New parenting orders will clarify that people with parenting time or decision-making responsibility are entitled to information about the child’s wellbeing. They will also allow a parenting plan to be included in the order.
 - “Contact” orders will replace “access” orders to allow for people without parenting time or decision-making responsibility to visit the child. New contact orders will be able to extend to special people in the child’s life such as grandparents if needed.
4. Add new provisions to address family violence.
 - The amended Act will adopt the definition of family violence from the *Divorce Act*. It includes actions like coercive and controlling behaviour, financial abuse, neglect, stalking, sexual abuse, and allowing a child to witness abuse towards another family member.
 - The amended Act will include a list of best interest of the child factors specific to family violence that a judge must consider, including any civil or criminal court action that has to do with the safety, security and well-being of the child.
 - New provisions will allow for a judge to require supervision during parenting time or during the transfer of the child from one person to another. This would address situations where a parent may not feel safe interacting with the other parent, or the child could be exposed to conflict during a transfer.
5. Clarify the legal process for relocations.
 - The current *Children’s Law Act* does not address relocation. The relocation framework in the *Divorce Act* will be included in the updated Act. It will define relocation and require the impacts on relationships between the child and special people in the child’s life to be considered. Mandatory notice of relocation to another parent will be required, and objections to relocation must be settled through the court. The changes will provide regulation-making power to explain how the framework will operate.
6. Describe new duties for parents, legal advisors, and the courts.
 - The new duties for parents and non-parents with contact time will encourage compliance with the Act by clarifying obligations, and requiring parties in a family law dispute to attempt alternative dispute resolution where it is appropriate to do so.
 - New duties for legal advisors will require them to encourage clients to use dispute resolution processes where appropriate and to inform clients about family justice services that can help resolve matters, or comply with their obligations under the Act.
 - New duties on the courts to address cases where families are involved with many parts of the justice system at the same time.

Changes proposed that are unrelated to the *Divorce Act* amendments will:

7. Allow for the collection, use and disclosure of personal information by and to the Child Support Recalculation Service with the Maintenance Orders Enforcement Program or Interjurisdictional Support Orders Program in certain circumstances.
8. Amend s. 75, which hinders the making of rules of court concerning family law matters under the *Judicature Act* that are inconsistent with the provisions of the Act. The amendment will allow for greater flexibility for the judiciary to create broadly applicable rules of court.

The proposed amendments will also make a number of non-substantive changes that will improve the Act's clarity and readability. This will include updating the current language with gender-neutral pronouns and terms as part of a gradual process being applied to all legislation of the NWT.

For additional information or questions contact:

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