

FUNCTIONAL COMPONENTS OF THE FAMILY JUSTICE SYSTEM

This paper provides an overview of the components of family justice service system as they currently operate in BC. The components are grouped according to the function they serve, with a brief description and list of key service providers for each. (The Inventory of Services provides a more detailed description each service.)

INFORMATION AND EDUCATION

Information and education services are important dispute resolution tools. They increase the public's general understanding of family law issues and provide specific information to families at the time of breakdown. Information and education services currently provided by:

- Several PLEI agencies: Provide workshops, printed information, videos and taped information.
- Parenting After Separation Program: Operates on a mandatory basis in 10 communities (parties to a provincial court FRA application must attend PAS before a court date is set; some exceptions apply) and voluntary basis in 21 communities.
- Websites: Ministry of Attorney General Family Justice Website; Legal Services Society Family Law Website.
- LSS Legal Information Network Kiosks (LINK): Provide information and self help materials through public access computers.
- Telephone information lines: Ministry of Attorney General Family Justice Enquiry Line; Legal Services Society Law Line; CBA Family Law Dial-A-Law.
- Non-government organisations: Often provide information and support to people experiencing separation and divorce. The agencies (Transition Houses, divorce support groups, women's groups and fathers' organizations) often refer their clients to legal aid, family justice counsellors and other services.
- Family justice service providers: Services listed below often provide general information to families regarding family law, court processes and alternative dispute resolution options and/or direct families to other sources.

INTAKE, SCREENING, ASSESSMENT AND REFERRAL

This component serves as the gateway to family justice services. Clients who access specific services are screened for eligibility for that service, and the particulars of their case are assessed. Because clients often do not know the type of services available and which would suit their needs best, referrals to other services are often provided. Many services will also refer clients to related services for emotional or drug and alcohol counselling, etc. The following services have their own, internal intake process to determine eligibility and to assess clients' specific service needs (see below for information regarding services provided):

- Family Justice Counsellors
- Comprehensive Child Support Service
- Legal Service Society for: emergency legal aid referrals, representation in CFCSA cases, advice lawyer and mediation pilot projects
- Ministry of Human Resources Family Maintenance Program
- Family Maintenance Enforcement Program
- Child Protection mediation
- FMEP Outreach
- Private lawyers, mediators
- Collaborative family law lawyers

A general screening, assessment and referral service is provided by:

- Family Justice Registries (Rule 5) (“Triage”): The mandatory referral of provincial court FRA parties to a Family Justice Counsellor for “triage” assessment and referral. The FJC assists parties initially to clarify and narrow their issues, and refers them to services including mediation or to court. Parties must attend triage prior to the setting of a first appearance date but are not required to act on any referral given. Currently in effect at 3 provincial court registries.

ADVICE AND SETTLEMENT

This component emphasizes solutions other than litigation through the provision of dispute resolution services and case specific advice to clients. Advice and settlement services are currently provided by:

- Family Justice Counsellor (FJC) Mediation: Accredited FJCs provide mediation and conciliation services on child custody, access, guardianship and family maintenance issues. They also assist clients with court documents to finalize agreements reached. Services are provided to primarily low and modest income families in 28 Family Justice centres located throughout the province.
- Comprehensive Child Support Service: Child Support Officer assists parents to obtain and vary child support orders without the use of court where possible. The project integrates a range of services, including financial disclosure and child support calculations, mediation, FMEP Outreach and legal advice offered in conjunction with LSS (see below) to facilitate agreement on child support issues. Service is available at three Family Justice Centres.
- Child Protection Mediation Program: Parents and the Director may opt for free mediation to settle disputes by choosing a mediator from a roster established by regulation. Available to any family province wide. Also, in some offices in the Fraser region, cases may be referred to mediation delivered in a Facilitated Planning Meeting format as an alternative to court.
- Collaborative family law lawyers: Parties and their lawyers contract to resolve their dispute without going to court. If either party brings on a contested court application, counsel must resign and cannot continue acting in the contested court proceeding. A wide range of related professionals may become involved in individual cases. CFL is growing quickly and best established in the urban areas of the province.
- Private mediators: 21 mediators are members of the BC Mediator Roster Society's Family Roster. Membership is best represented in the lower mainland, Vancouver Island and the Okanagan.
- Private lawyers who mediate their cases: Many private lawyers will attempt to mediate their client's case prior commencing to court action. The Law Society of BC allows family lawyers who complete additional training and other specifications to refer to themselves as "family law mediators".
- LSS mediation pilot project: LSS is funding mediation in a maximum of 250 financially eligible family cases, as a pilot project. Each authorization will allow 6 hours to assist the clients and prepare the agreements or consent orders, and 6 hours of mediation. Lawyers throughout BC may seek authorization for mediation, provided a file has already been opened for the client.

- LSS / FJSD Family Advice Lawyer Pilot Project: Legal advice is provided to clients who are referred by FJCs and Child Support Officers. The objectives are to inform clients about their options and to ensure that settlements achieved by FJCs are made more durable by providing appropriate and timely legal advice. Any client may receive 45 minutes with an advice lawyer; in some cases where clients meet income criteria they may also receive up to 3 hours of service. Service is provided at Family Justice Centres in 6 locations.
- LSS Law Line: Callers to a 1-800 line may speak directly with a lawyer who provides information and referrals for all callers; summary legal advice is provided to clients who qualify financially.
- FMEP Outreach: An Outreach Officer is available on an itinerant basis at Family Justice Centres to meet with clients to explain FMEP enrolment, policies and procedures, and to work with payors to arrive at voluntary payment arrangements. Service is available in 7 communities.
- Ministry of Human Resources Family Maintenance Program: FMP will attempt to obtain a consent support order on behalf of their clients. (However, if this fails, they will proceed to court).
- Pro bono clinics: Legal advice, but not representation in court, is provided to clients of low income at 40 clinics throughout the province.

SUPPORT FOR HEARING AND TRIAL

This component supports cases in the litigation stream; in some instances they provide “off ramps” to alternative resolution mechanisms or early settlement opportunities. Services currently being provided in this area include:

- British Columbia Provincial (Family) Court: Provides hearing and trial services in 82 locations (40 are circuit court locations). Services are free.
- Supreme Courts of British Columbia: Provides hearing and trials in 27 locations. Fees apply.
- Provincial Court Family Case conferences and Supreme Court Judicial Case Conferences: A settlement opportunity once litigation has begun is provided when a judge holds a family or judicial case conference. At the case conference the judge will meet with the parties to attempt to facilitate settlement and / or make orders related to the case.

- Custody and Access Assessments: Specially trained Family Justice Counsellors prepare s. 15 Custody and Access reports on order of the court. Service is available anywhere in BC but priority is given to intractable disputes where the safety of children is in question, family violence is a factor, or extended denial of access is alleged. Priority is also given where one party resides outside BC, or where one or both parties are unrepresented or represented by LSS counsel.
- Private legal representation: Lawyers act for clients by representing them during hearings and trial, and by preparing orders that result.
- Legal Services Society CFCSA cases representation: The Legal Services Society provides legal representation to financially eligible CFCSA clients whose legal problems meet coverage criteria.
- LSS Family Duty Counsel pilot project: The project provides two duty counsel on family list days at provincial court to assist self represented litigants with CFCSA or FRA matters. Clients may receive up to 3 hours of advice, assistance at court with continuity of counsel for return visits, help with preparing consent orders/agreements in uncontested cases and access to self help materials. Priority is given to clients with matters in court that day who meet LSS income test for advice services. Service is offered in 43 locations.
- LSS Supreme Court Advice Lawyer Pilot Project: An Advice Lawyer is available at the courthouse for 4 hours per week to advise unrepresented, low income Supreme Court litigants. They provide specific advice on family matters, limited advice on property matters, advice and assistance with court forms and procedures and referrals to other services. They do not appear in chambers. The service is available in 4 locations.
- Family Maintenance Enforcement Program (FMEP): FMEP provides legal representation in a limited number of cases where applications to vary the order, that could interfere with enforcement, have been commenced.
- Ministry of Human Resources Family Maintenance Program: Provides legal representation as needed for their clients to obtain and vary a support order, or to defend an application to vary.

POST RESOLUTION SERVICES

This component includes services to enforce, and support compliance with, court orders and agreements. Services currently provided by:

- Family Maintenance Enforcement Program (FMEP): FMEP monitors and enforces maintenance payments for clients with enrolled orders and agreements. Enforcement service is available to anyone with an agreement or order enforceable in BC. Participation is voluntary, except for recipients who have assigned their maintenance right to the government as a condition for receiving BC Employment and Assistance. FMEP services are accessible by telephone, website and mail.
- FMEP Outreach: An Outreach Officer is available on an itinerant basis at Family Justice Centres to meet with clients to explain FMEP enrolment, policies and procedures, and to work with payors to arrive at voluntary payment arrangements. Service is available in 7 communities.
- Family Search: Family Search assists clients to locate the address, employment, source of income and asset information on individuals sought to obtain, change or enforce maintenance, custody, access and guardianship orders. Services may be accessed throughout BC through FMEP, Ministry of Human Resources Family Maintenance Program or courts.
- Supervised access: This service facilitates safe contact between children and their parents where there has been a lengthy absence of contact or there is a concern about a parent's violence, alcohol or drug abuse, lack of mental well being or lack of parenting skills. Families are referred by FJCs, or via FJCs from court. Service is free and is available in 10 communities.
- Family Justice Counsellor mediation: FJCs assist families experiencing difficulties such as access denial once an agreement or order is in place. Services are provided to primarily low and modest income families in 28 Family Justice centres located throughout the province.
- Comprehensive Child Support Service: Child Support Officers assist parents to vary their child support orders or agreements when their circumstances change. Service is available at three Family Justice Centres.