



Family Law Modernization Action Plan

July 2020

Minister's Message

In 2017, our government committed to making a difference in the lives of Manitobans by modernizing our family law system to be simpler, less adversarial and less damaging for families and children. The COVID-19 pandemic has placed additional challenges on separating or divorcing families. We are particularly concerned with those experiencing intimate partner violence and parents who may not have access to their children. I am pleased to update you on our progress to date and help connect families to the services and support they require during these challenging times.

This update reports on the following initiatives:

1. arbitration for family law matters;
2. enhancements to the Maintenance Enforcement Program;
3. launch of the new Child Support Service on July 1, 2020; and,
4. launch of Phase 1 of a single-window Family Resolution Service.

We also report on the extensive collaboration and consultations that have taken place and our work on Phases 2 and 3 of the Family Resolution Service.

Our government created an advisory committee, led by Allan Fineblit, to review the current family law system and make recommendations. In June 2018, this resulted in releasing [Modernizing Our Family Law System: A Report from Manitoba's Family Law Committee](#). Then we invited Manitobans to share their ideas, which were set out in our earlier Public Engagement Report.

This process has shaped how we moved forward. We have introduced legislation, [The Family Law Modernization Act](#), to set the framework for improvement. It was passed in June 2019, and has already resulted in significant improvements. We will continue to look at Manitoba's family laws to simplify, modernize and improve accessibility and relevance for Manitoba families. We are putting families first by making separation and divorce less damaging to Manitoba families and children.

These changes are having a positive impact on Manitoba families. Families now have access to family arbitration as an out of court option to resolve disputes where the resulting arbitration awards are enforceable in the same way as a court order. Changes to our Maintenance Enforcement Program alone will save families an estimated \$15 million dollars annually in legal and court fees. A new Child Support Service, opening July 1, 2020, will allow families to calculate initial child support without going to court and to recalculate existing support in a broader range of circumstances such as a sudden, major change in employment.

Family breakdown is a difficult process to navigate, complicated by a system that is legally focused, often costly and not attentive to the social, relational and financial needs of the people affected most. Services are offered by many different providers - private, public and community-based but can be hard to find and navigate. Families are unique and a one-size fits all approach does not work. Manitobans told us they wanted all the resources and services they required to make decisions about their lives moving

forward all in one easy to navigate location online. They asked for navigators or guides who could answer specific questions and direct them to specialized support as needed. To address that need, we have launched the first phase of a single-window Family Resolution Service.

Using innovation and co-design approaches, we have seen first hand that when families define their problems and needs at the outset, and contribute their ideas for change, significantly better services result. We have taken our lead from Manitobans and their insights have shaped and adjusted our approach.

This update highlights the important work that has been completed to date to address families' challenges, and how we can make a meaningful difference to Manitobans in partnership with community and other service providers. It provides some much needed relief to families struggling to navigate family law matters in light of the additional challenges of COVID-19. It also outlines our next steps – over the short and long term – to modernize the family law system. Our government is working with many stakeholders – families, communities, social service providers, the legal community, academia and the not-for-profit sector – to make this plan a reality.

I would like to thank everyone who has participated thus far for sharing their personal experiences and valuable expertise. I would also like to thank our Collaboration Table, whose work is referenced below, for their dedication and important insights. We will continue to seek input from Manitobans of all walks of life who have or are currently experiencing family breakdown, including Indigenous, Francophone and newcomer communities, as we develop and test new services to ensure they meet the diverse needs of Manitoba families.

Honourable Cliff Cullen
Attorney General and Minister of Justice

Background

In Manitoba, an estimated 3,000 to 5,000 families are affected by separation or divorce every year. Going through this process to settle a wide range of issues – such as parenting and custody arrangements, child or spousal support or property matters – is heavily dependent on the courts. The process can be adversarial, complex, expensive and drawn out, which can have serious impacts on the emotional and physical well-being of family members, especially children.

In Manitoba, more than 20 public, private and community entities or programs may support families in this process, including legal aid, mediation services, private family lawyers, financial advisors, social service providers and professionals supporting families experiencing domestic violence. There are many excellent resources available, but they can be difficult to find or navigate, especially those that are available at no or low cost. Families often must choose between professional services, which can be expensive, or self-representation if they do not qualify for legal aid. The court-based system leaves many families feeling left on their own and forced to learn a complex process with the potential for significant conflict and cost.

In 2016, surveyed Canadian lawyers reported charging an average \$1,770 in total fees per person for uncontested cases and \$20,000 per person for contested cases. As part of the public engagement process, Manitobans told us families can spend \$60,000 just to make their way to court.

The cost of conflict can be far greater than legal bills. Manitobans told us that the court-based system is time consuming and can take several years to make their way there to receive critical decisions. In the meantime, parents can struggle to gain fair access to children and financial support. The adversarial nature of court, compounded by delays, can increase stress, worsen conflict and result in poorer outcomes for children and families. These social costs create additional barriers for families who are facing other life challenges.

Changes to improve these circumstances have already been initiated by the Court of Queen's Bench and the Manitoba government. Timelines are improving but we can do a better job of connecting families to resources and services. This action plan is informed by what we heard to date from Manitobans and will help support future progress.

Guiding Principles

Most family matters should be settled outside of court.

Children's needs come first. Child support is prioritized and simplified.

A restorative, family-focused approach resolves disputes at the earliest possible point and supports families' immediate and longer-term social, relationship and financial needs.

Families are empowered, self-directed and supported to make independent decisions.

Families have agency and know what to expect every step of the way.

Services are easy to locate, convenient, accessible and available online, in-person or over the phone in one central place, regardless of where you live. Navigation support is available to guide families when they need assistance.

For those who do not need or want public support, other options are available and easy to locate.

Steps and processes are explained in plain language so that everyone can understand their options.

Timelines are established for individuals and service providers to hold parties to account and minimize delays.

The importance of independent legal advice is highlighted to ensure rights are respected.

Progress to Date

Great progress has been made. Many changes are already having an impact on Manitoba families. The passage of The Family Law Modernization Act has resulted in families now having access to arbitration that is specifically designed for family law disputes as another out of court option to resolve disputes. Enhanced Family Guidance, Early Resolution Services, changes to our Maintenance Enforcement Program, a new Child Support Service and tools for self-represented litigants make things easier for those who cannot afford private services or want to reduce their costs. Collectively, these changes stand to deliver up to \$41 million dollars in annual savings in court and legal fees for families.

This Action Plan update highlights the important work that has been completed to date to address families' challenges, and how we are making a meaningful difference to Manitobans in partnership with community and other service providers.

New Child Support Service

The Child Support Service recalculates the amount of child support in existing court orders. Currently they manage approximately 1400 files per year. The Family Law Modernization Act expands the role of the current child support service and gives it the authority to make initial child support decisions in a

broad range of cases. The service will also be able to recalculate child support agreements and family arbitration awards, which was previously not possible.

These changes are anticipated to take thousands of matters out of court – saving families time and enabling those who require immediate relief to obtain more timely decisions. Up to \$26 million in annual savings in court and legal fees are anticipated

Families may begin gathering their required information to request a preliminary assessment of their eligibility for this new Child Support Service. Further information, tools and updates on the status of Regulations to enact this Service will be posted on Family Law Manitoba with the first decisions anticipated later this summer.

The Maintenance Enforcement Program

The Maintenance Enforcement Program (MEP) administers child, spousal and common-law support set out under court orders, agreements or family arbitration awards, acting as an intermediary between those who pay and receive support. Currently, they are managing approximately 12,600 files.

Changes to The Family Maintenance Act came into effect in July 2019, and significantly expanded the administrative authority of MEP. Some of the changes include:

- Parties are permitted to enter into an agreement to change the amount of court-ordered support that MEP will enforce.
- MEP may undertake reviews to determine the status of adult children and cease enforcement of child support for them in appropriate circumstances.
- MEP may enforce a reduced amount of child support in an order if certain criteria are met, such as when an adult child is no longer dependent but support continues for other dependent siblings.
- MEP may suspend enforcement of support in appropriate circumstances.
- A recipient of support can decide whether penalties are assessed on arrears. A recipient of support can waive or cancel penalties payable to them.

By allowing MEP to make administrative decisions in appropriate circumstances and to gather information more effectively, families will not need to make as many court applications to vary existing orders. These new tools will also save families time and money when they need to adjust the amount of support being enforced. Matters that would have previously required a court filing, will now be able to be addressed outside of court.

The pandemic has increased challenges for families. We have allowed MEP to make more frequent inquiries to determine if support for an adult child remains eligible for enforcement and enabled both parties to obtain a copy of the information they each provide to MEP when one party has requested an administrative suspension of enforcement of support. As of April 15, as a result of these changes and in response to the needs of families, more families have been able to resolve support enforcement issues by working with MEP rather than making a court application.

In total, we anticipate that MEP will be able to review and administratively adjust enforcement in 3,000 cases annually and keep most of those cases out of court at an estimated cost savings to Manitoba families in legal and court filing fees of \$15 million annually.

Arbitration for Family Law Matters

Arbitration is one way to deal with family law matters outside of court, which is often simpler and less formal. An independent family arbitrator – who must be an experienced family law lawyer – is chosen by the parties involved to hear and make decisions on their disputes.

As of July 2019, awards made through family arbitration can be enforced in the same way as a court order.

This means that family arbitration awards for child support, spousal or common-law partner support are enforceable by the Maintenance Enforcement Program and awards relating to parenting and custody arrangements are enforceable under The Child Custody Enforcement Act. In addition, family arbitration awards related to property can now be enforced through a streamlined court application, reducing costs and time for families.

Families that choose arbitration can now resolve their family law dispute with an award that has the same effect as a court order. We understand that some Manitoba families have already begun exploring this newly available option and will await the results being filed with the court.

Strengthening Partnerships

Manitoba Justice launched a Collaboration Table in early 2019, to guide the design and development of initiatives connected to family law modernization. This group includes family law service providers and experts from the legal, social service, financial, academic and non-governmental sectors, offering a broad range of perspectives on the challenges and solutions facing Manitoba families during separation and divorce. They bring the diversity of Manitoba families' common and unique challenges to the forefront.

Manitobans told us that we needed to work more closely with other service providers. Service providers expressed interest in better aligning efforts to deliver a more seamless continuum of affordable supports to families. We are pleased that our partners have offered their space, time, expertise and resources to work more closely with publically funded services to ensure all families have the support they require.

Collaboration Table members' expertise and front-line understanding of family needs has and will continue to guide the implementation of significant initiatives such as those outlined below as we work together to improve supports for families. A listing of Collaboration Table members and others who participated in, or supported, engagement sessions on family law is included at the end of this document.

A Single-Window Family Resolution Service

A new single-window Family Resolution Service is being launched in phases to deliver a seamless continuum of public, private and community-based services to Manitobans and support existing and future changes to family law in Manitoba. This “digital first, but not digital only” service allows for services to continue to be delivered uninterrupted by social distancing requirements. It recognizes that most Manitobans want online options, but that others may prefer or require an alternate form of access, such as phone or in person. It aligns efforts of public, private and community service providers to deliver a range of affordable and timely supports and services.

The Service includes:

- information, tools and resources;
- the ability to request information or provincial services through a single Get Guidance email and telephone number;
- Early Resolution Support Services (Phase 1 - see diagram) delivered by Family Guides with expertise in domestic violence and safety planning, conflict resolution and mediation, family law and court processes;
- triage and referrals to culturally and linguistically appropriate specialized services, which could include the new Child Support Service, Legal Aid or other private and community financial, legal or health and social services;
- support to complete any pre-requisites for court;
- referral to alternate dispute resolution services such as arbitration, mediation, and collaborative family law and legal services offered by community and private service providers;
- referral to the Child Support Service or court for decisions and court orders in cases where resolution cannot be reached;
- referral to mental health services and supports such as [AbilitiCBT](#), a new digital therapy program from [Morneau Shepell](#), available to all residents of Manitoba age 16 or older experiencing mild to moderate symptoms of anxiety due to the COVID19 pandemic;
- referral to child care options on a short-term and emergent basis when accessing safety support and services or being physically present in court.

Family Resolution Service					
Early Resolution Support (Phase 1)			(Phase 2)	(Phase 3)	(Phase 1)
1 Information	2 Profile	3 Service Offer	4 Facilitated Resolution & Agreement Development	5 Decision	6 Post Resolution Support
Client gathers information from key sources: <ul style="list-style-type: none"> • Family Law Manitoba • Family Guide • Service Providers • Community Organizations • Private Service Providers 	If requesting government services, client creates an intake form/online profile supported by: <ul style="list-style-type: none"> • Family Guide • Community Service Providers 	Clients are assessed, triaged and referred to support services (e.g.): <ul style="list-style-type: none"> • For The Sake of The Children parenting program • Child Support Service • Victim Services • Legal Aid Manitoba • Community Services • Court 	Clients select from a menu of options to resolve disputes and develop and agreement: <ul style="list-style-type: none"> • Arbitrator • Collaborative Lawyer • Mediator • Elder or faith based support • Facilitated Resolution & Agreement Development Support 	Clients receive a recommended order from: <ul style="list-style-type: none"> • Adjudicator (Family Dispute Resolution Service Pilot) • Confirmed as a Court order 	Clients receive support to enforce decisions: <ul style="list-style-type: none"> • Maintenance Enforcement Program
Family Guidance					

Families who are unable to resolve their matters through consent with the support of these early resolution services may require additional professional assistance. We are interested in collaborative, restorative approaches that meet the unique needs of our Indigenous, Francophone, newcomer and other communities affordably. Today, we invite community and private family law and other social and legal service partners to begin a dialogue about how they might partner with us to deliver enhanced Facilitated Resolution and Agreement Development support in diverse communities around our province (Phase 2 – see diagram). Later this fall we will invite proposals for how the province might enhance facilitated resolution support when clients cannot agree. Public engagement with Manitobans will take place over the coming months to help those interested in shaping their proposals.

Digital Services

[Family Law Manitoba](#) has been launched on the Manitoba government’s website. This central portal was designed with Manitobans’ feedback. This single authoritative source of family law information and services is available 24/7 to connect families to the social, relationship and financial assistance they require online. It also helps connect Manitobans with all public, private and community services and organizations, alongside clear and accurate information about family law issues and available government resources. For those who do not have access to online services or require additional assistance, a single Get Guidance telephone number and email connect clients to a personalized response for general inquiries and intake to government services.

Family Law Manitoba helps families complete the pre-requisites to apply to court, including:

- an online For the Sake of the Children parenting program;
- new templates and guidelines to help self represented litigants document their agreements, develop their parenting arrangements, including sharing parenting time and decision-making responsibilities;
- connecting parents with early resolution and alternate dispute services such as mediation, arbitration and collaborative or other family law legal services to assist when they cannot resolve their disputes; and
- providing a tool to help families gather all of the financial disclosure information needed for child and spousal support as well as property division.

Manitobans told us they needed help to find their way. Family guidance is available through the Manitoba government's single email and telephone line and existing non-governmental service providers such as Legal Help Centre, Info Justice and Community Legal Education Association. This service will be continually improved in conjunction with Family Law Manitoba and resources for self-represented litigants. We are also pleased to partner with the Law Society of Manitoba, Legal Help Centre and the Faculty of Law on their Great Library Hub pilot which delivers legal information and advice to clients in conjunction with Family Guides. Respecting public safety direction, these services are available virtually and by telephone until such time as more in person assistance can be offered once again.

Family Guides are familiar with legal and program requirements and have training in assessment, triage and referral to specialized services. They have specialized expertise in family law, mediation, domestic violence and court processes. The province will continue to evaluate families' needs and the demand for this service based on feedback from Manitobans.

Not everyone will choose to access government services. Family Guides will aim to connect Manitobans to the right place and service quickly, regardless of whether that service is public, private or community-based. The creation of a client profile will minimize the need for clients to tell their story multiple times. [Family Law Manitoba](#) centralizes what is available in one easy-to-use location and ensures families are aware of the diversity of choices to meet their unique needs.

Engagement

Engagement with Francophone communities and service providers has supported the development of services that will ensure unique needs are addressed substantively in a family's official language of choice. We must go beyond simply translating materials and apply a Francophone lens throughout our work. This has led to the development of designated bilingual positions and joint efforts to design and offer French language training for family law service providers.

Ongoing engagement with Indigenous communities and newcomers is being undertaken to ensure unique needs of these communities are addressed throughout the Service. We look forward to how their ideas will shape service delivery.

Looking Forward

Important improvements have been made, but the complexity and challenges of the current system mean that there is still much more to be accomplished. The Manitoba Government will continue to work with families and partners to improve access to family law services over the months and years ahead. Put simply, the intent is to improve access to a range of better services, built around the needs and experiences of families and children.

Throughout this process, Manitoba Justice is committed to transparency and public reporting about our success. This fall, a framework will be introduced for public reporting on progress and the effectiveness of the changes being made. It will establish target metrics and public service standards connected to the Government of Manitoba's Cabinet Scorecard so we can continuously monitor and improve client service and outcomes for our publicly delivered programs and services. Regular progress updates will be provided as family law initiatives are implemented and evaluated. This will allow government and other partners to make adjustments to improve service if the desired results are not being achieved.

Family Dispute Resolution Service Pilot Project

The services we are launching today under the new Family Resolution Service will be delivered and evaluated through 2020. Engagement with Collaboration Table members, Manitobans and the private legal community will take place throughout 2020 respecting the development of the Family Dispute Resolution Service (Phases 2 and 3).

Guided by the results of our consultations, we will launch a first of its kind in Canada, pilot project in 2021, with the goal of keeping more matters out of court and resolving disputes in a more timely way. This pilot will be available to separating couples seeking to resolve disputes under Manitoba family law in a Winnipeg court centre. It will provide additional, in-person, facilitated resolution support (Phase 2) for couples otherwise unable to resolve their matters. If this process is still not successful in reaching a solution, adjudicators (Phase 3) will be responsible for making prompt and fair decisions that can be confirmed as orders of the Court of Queen's Bench.

Conclusion

We are pleased with the participation of our community partners and Manitobans in shaping these changes. Our vision of improving access to justice and lessening the social cost of conflict is shaped by those directly impacted. We look forward to building these new services with and for families and seeing the impact we can have when we all work to solve challenging social issues together.

Since the beginning of the Family Law Modernization initiative, the Government of Manitoba has received thoughtful insights from Manitobans representing the diversity of our province. Families with direct and indirect experience with separation and divorce from all walks of life and adult children of family breakdown bravely shared their lived experiences. The judiciary in Manitoba and from other jurisdictions, several departments across all levels of government and professionals working in family law provided expertise to help inform this work.

Community engagement on new and improved services, how and where they will be delivered is ongoing with Manitobans including Indigenous, Francophone and newcomer populations now to shape and improve new and existing services. We look forward to continuing to engage other communities and individuals.

We acknowledge the following organizations for their contributions:

- Alternative Dispute Resolution Institute of Manitoba
- Association des juristes d'expression française du Manitoba
- ChangeMakers
- Collaborative Practice Manitoba
- Community Legal Education Association
- Ending Violence Across Manitoba
- Facilitated Solutions - Mediators & Conflict Management Specialists
- Family Mediation Manitoba
- InfoJustice Manitoba
- Legal Aid Manitoba
- Legal Help Centre
- Ma Mawi Wi Chi Itata Centre
- Manitoba Association of Women's Shelters
- Manitoba Centre for Families in Transition
- Mediation Services (Winnipeg)
- Modern Earth Inc.

- Ndinawemaaganag Endaawaad Inc.
- North Forge Technology Exchange
- Nor'West Co-Op Community Health
- Red River College
- Relish Branding
- RESOLVE Research Network
- Society for Manitobans with Disabilities
- The Law Society of Manitoba
- The Manitoba Bar Association
- The Manitoba Law Foundation
- University of Manitoba - Faculty of Law
- Willow Place Family Shelter
- Winnipeg Children's Access Agency
- Winnipeg Police Service