

**MINISTRY OF ATTORNEY GENERAL AND
MINISTRY RESPONSIBLE FOR HOUSING
OFFICE OF HOUSING AND CONSTRUCTION STANDARDS
INFORMATION BRIEFING NOTE**

PURPOSE: For **INFORMATION** for Shannon Salter,
Deputy Attorney General and
Deputy Minister Responsible for Housing

ISSUE:

Potential short-term (12-18 months) policy changes to rental supplements to make life more affordable for renters.

SUMMARY:

- Rental assistance programs are intended to improve affordability by assisting low-to-moderate income renters access the private market. BC's core rental supplements, Rental Assistance Program (RAP) and Shelter Aid for Elderly Residents (SAFER) have not seen an increase since 2018 and have no mechanisms for routine increases (e.g., indexed to inflation or other metrics).
- BC's yearly inflation rate in March 2021 was 2.0 per cent and 6.1 per cent in March 2022
- Maximum rent ceilings (2022) for RAP are between \$1,067 and \$1,250, while the average private market condominium is \$2,498/month in metro Vancouver.
- Households who would benefit the most from a rental supplement are households paying more than 30 per cent of their gross income on rent.
- Potential policy changes that may improve affordability through rental supplements include:

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BACKGROUND:

- There are an estimated 680,000 households' families living in rented dwellings in BC. It is estimated that 43 per cent are in core housing need. Among these, 25 per cent of single person households are likely in core housing need.
- In 2018, government invested \$139 million over three years to expand the eligibility requirements and increased benefit amounts for both RAP/SAFER. Enhancements to both programs included increasing the maximum rent ceiling and adding a third rental zone.
- In 2022/23, the province will spend \$37.9 million on RAP to help 7,100 families and \$63.1 million on SAFER to help over 24,400 seniors. The average monthly subsidy for 2022 is \$445 for RAP and \$216 for SAFER.

- BC spent \$129 million to administer the Temporary Rent Supplement (TRS) program early in the COVID-19 pandemic to prevent evictions for households who lost income due to COVID-19.
- The TRS program had the highest intake of any BC Housing rent supplement program receiving six times more applications than RAP or SAFER combined.
- From April to June 2020, 98,862 applications were received through the TRS program.

DISCUSSION

Options and further policy analysis for government to explore to improve affordability through rental supplements may include:

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INDIGENOUS PEOPLES CONSIDERATIONS:

- Future Provincial actions may impact Indigenous Peoples; however, the specific impacts are beyond the scope of this information note.

GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:

- Equity-seeking groups are disproportionately experiencing core housing need and insecurity of tenure. Delivery of new rent supplements or expansion of existing rent supplements will address these housing concerns.

OTHER MINISTRIES IMPACTED/CONSULTED:

- BC Housing will be impacted by any of the suggested options and have been consulted in the development of this information note.

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**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Shannon Salter,
Deputy Attorney General and
Deputy Minister Responsible for Housing

ISSUE:

An overview of Justice Services Branch projects addressing family violence for information meeting June 2, 2022.

SUMMARY:

- The purpose of this note is to provide an overview of current and ongoing Justice Services Branch projects aimed at addressing family violence.

BACKGROUND:

- Family violence is defined broadly in the *Family Law Act* (FLA) to include physical and sexual abuse, psychological and emotional abuse including intimidation, harassment, coercion or threats, restrictions on personal/financial autonomy, stalking, intentional damage to property, and in the case of a child, exposure to family violence.
- Family violence can occur even if the person responsible for the violence doesn't intend or recognize their behaviour as violent and can be present even if the target of the violence does not recognize the behavior as family violence.
- Women and gender diverse people are at higher risk to be a victim of family violence and to suffer from the broader social impacts of that violence such as housing and financial insecurity.
- Indigenous women and girls are at a disproportionate risk and face among the highest rates of violent and non-violent victimization – including family violence - of all population groups in Canada.
- Immigrant and newcomer women are at higher risk and are more impacted by gender-based violence and women with a disability are three times more likely to experience violent victimization than women living without a disability.
- A 2018 federal Research Brief on family violence in family law highlighted some commonly understood facts¹:
 - The most dangerous time for a victim/survivor of violence is immediately after separation.
 - From 2007 to 2011, a woman's risk of being killed by a spouse she was separated from was nearly six times higher than the risk faced by a woman from a spouse she was living with.
 - Almost half of survivors (49%) indicated that violence increased in severity after the breakup of the relationship.

¹ <https://www.justice.gc.ca/eng/rp-pr/jr/rg-rco/2018/sept01.html>

- More than 90% of offences involving criminal harassment and harassing or indecent phone calls were committed after a separation.
- BC's Family Law Act was applauded at the time of introduction for defining family violence as broadly as the Act did, for inserting risk factors in the legislation, for incorporating family violence into the best interests of the child test and for introducing protection orders which can be obtained when there is risk, not necessarily an incident of family violence.
- There is not a one size fits all model for how best to support families impacted by family violence. The family justice system – in all its forms – can and needs to do better to put safety at the centre of its processes and systems.

DISCUSSION:

Family Justice Services Division

- Family Justices Services Division (FJSD) has staff across the province at Justice Access Centres and Family Justice Centres providing a variety of supports for families, including those experiencing violence.
- The FJSD considers all aspects of family violence and power imbalance through the initial assessment process, as well as ongoing assessment if parties are proceeding to dispute resolution (mediation or facilitated negotiation).
- Assessment for family violence occurs in every case where a client initiates services through a Family Justice Counsellor or Child Support Officer (at Family Justice Centres and Justice Access Centres around the province) prior to any decisions about whether dispute resolution services are appropriate (even if referred by the courts).
- The initial assessment process includes discussion about how parties have typically made decisions and how the power dynamic and potential imbalances influences decision making and capacity of all parties to negotiate.
- When issues of safety and family violence are identified, clients are referred to appropriate resources, including legal advice, victim services and community support services with expertise in these areas, as well as police when appropriate.
- FJSD puts great emphasis on ensuring staff have specialized knowledge about the dynamics of family violence (including coercive control) and its effect on families and children. Staff are specially trained and skilled at identifying and responding to these issues in practice, including determinations related to the appropriateness of dispute resolution services. The 2022 annual conference for family justice counsellors is centered around family violence learning, including skill development related to their practice.
- FJSD is committed to ensuring dispute resolution tools and staff training opportunities reflect new information and best practices in the anti-violence sector. The division has recently updated its standardized assessment tool to ensure it adequately reflects current best practices in the field, including assessment for coercive control.

Exploring Safe Supports for Family Justice

- The ministry received temporary funding from the federal Justice Partnership and Innovation Program to explore supports for women in families experiencing violence

while navigating the family justice system. Specifically, FPLTD is working to design, implement, and evaluate new family justice prototypes in three program streams:

- a family court support worker program,
 - a model for limited legal representation for cross examination in family court, and
 - ways to improve coordination across criminal, family, and child protection matters.
- The Division is working on these three initiatives under the project name, Exploring Safe Supports for Family Justice (Safe Supports). See attachment Project Overview for more details on the three program streams.
 - This project has linkages with a number of projects led by other ministries and organizations, including:
 - The Gender-Based Violence Action Plan,
 - Potential expansion of the Native Court Worker program into family justice,
 - Ongoing and operational project and programs in community-based organizations,

Family Law Act Modernization

- As part of the *Family Law Act* Modernization project, the ministry is looking at ways to improve the Protection Order regime and how family violence is considered in decisions about guardianship, parenting arrangements and contact with a child. This will include reviewing the risk factors that the court must consider when assessing family violence in the context of the best interests of the child and whether to make a protection order.

Early Resolution Model

- As a key part of reforms to the Provincial Court Family Rules (the Rules), the Ministry and Provincial Court introduced the early resolution model (the Model) in Victoria as a prototype in 2019, expanding to Surrey in December 2020.
- The Model builds on existing family justice services to provide individuals with family law matters early access to information and referrals, assistance resolving disputes out-of-court, and help families prepare for next steps in their family law matters (including preparing for court).
- The early resolution requirements of the Model apply where a party is seeking to resolve a family law matter as defined by the Rules: parenting arrangements, including parental responsibilities and parenting time; child support; contact with a child; guardianship of a child; or spousal support.
- Parties seeking other orders such as those related to protection, enforcement, case management or priority parenting matters proceed directly to the court. The early resolution requirements do not apply to these applications.
- The model requires parties with a family law matter to complete the following services before filing an application in Provincial Court:
 - a needs assessment with a Family Justice Counsellor (at Family Justice Services Division) which includes early screening for family violence, identification of legal and non-legal needs, access to legal information,

- referrals to community organizations and legal advice; and support preparing for the appropriate next step;
 - a parenting education course (Parenting After Separation); and
 - one consensual dispute resolution (CDR) session, if appropriate.
- The Model provides an opportunity for early assessment for family violence in every case proceeding to Provincial Court on family law matters, which has frequently been identified as a gap in the existing system.
- The needs assessment allows for early identification of family violence issues, which disproportionately impact women. Needs assessment as part of the early resolution model helps to ensure that CDR is recommended only after there has been adequate consideration of family violence and power imbalances. Assessment also allows for appropriate referrals to victim services and community organizations, to provide families experiencing family violence with more supports. The Model helps to ensure that families with these issues are identified and supported. The time, training and tools required to do this in-depth screening, assessment and support is not available within the traditional court process.
- The Model has received mixed feedback from the anti-violence sector, in particular those who believe that CDR is never appropriate when family violence is or has ever been present. Others feel that there are situations in which the nature of the family violence and the design of the process can lead to lasting agreements. It is important to note that research has also shown that the court process and courthouses themselves are typically unsafe spaces for women and families who have experienced violence.

Informal Trial Pilot

- An informal trial is a trial process in which the trial judge may take a facilitative role to direct, control and manage the conduct of the trial.
- The trial process enables the judge to direct how information is put before the court and determine how the information will help the court to decide the issues. The parties or their lawyers direct their questions and comments to the judge, not each other. The judge may also allow evidence that is relevant, material, and reliable, even if it might be inadmissible under the strict rules of evidence.
- At an informal trial, the judge can control the conversation and limit the interaction between the parties. This can be an extremely effective tool in managing relationships with family violence concerns or a power imbalance.
- The informal trial process is being implemented, beginning May 16, 2022, as a pilot in the Kamloops registry to determine how the process will work in practice in BC, the overall resourcing impacts of informal trials and if the intended outcomes are being achieved.

Collaboration and Connections

- Ministry staff are participating in the Gender-Based Violence Action Plan work being led by the Gender Equity Office and the Ministry of Public Safety and Solicitor General.
- Ministry staff are active on a number of cross-sector coordinating committees including Violence Against Women in Relationships (VAWIR) groups, Community

Coordination on Women's Safety (CCWS) working group, as well as presentations to and operational and ongoing dialogues with service providers.

INDIGENOUS PEOPLES CONSIDERATIONS:

- Indigenous women and girls are at a disproportionate risk and face among the highest rates of violent and non-violent victimization – including family violence - of all population groups in Canada.
- As part of the FLA Modernization project, FPLTD is developing an Indigenous engagement plan. It is anticipated family violence and protection orders will be of particular interest to Indigenous populations.

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Attachment(s)

Project Overview Expanded – Exploring Safe Supports for Family Justice

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Exploring Safe Supports for Family Justice

Project Overview - Expanded

December 2021 – March 2026

Exploring Safe Supports for Family Justice

Family Policy, Legislation and Transformation Division in the BC Ministry of Attorney General received temporary funding from the federal Justice Partnership and Innovation Program (JPIP) to design, implement, and evaluate new family justice prototypes in three program streams:

- a family court support worker program,
- a model for limited legal representation for cross examination in family court, and
- ways to improve coordination across criminal, family, and child protection matters.

The Division is working on these three initiatives under the project name, Exploring Safe Supports for Family Justice.

The Justice Partnership and Innovation Program

The JPIP is a discretionary grants and contributions program that funds initiatives that support the long-term goal of increasing access to the Canadian justice system and strengthening the Canadian legal framework. Under its Family Violence Initiative, the JPIP's objectives are

- to strengthen the justice system's response to family violence and
- to promote continued public awareness of family violence and public involvement in the response to family violence

About These Program Streams

The three program streams were identified by the federal government. While these areas are not necessarily seen as the top priorities in BC, stakeholder engagement to date has been supportive and has confirmed a need for improvements.

BC has a number of programs that are similar to a family court support worker including family justice counsellors, family law advocates, and native court workers. However, each of these programs faces their own mandate, eligibility, or funding limitations. While some regions of the province have a lack of services, in others people are faced with a lot of options for support, but it is not always clear what is the right fit for them. Many services cannot attend court with the party. Many other are not mandated to provide the wrap around support or "after care" that people require to feel supported throughout the process. Some have income thresholds or limited hours of service. The engagement phase of the project will identify what gaps this program can fill.

The rationale behind the cross examination program is to insulate or buffer victims of abuse from being cross examined by their abuser or from having to cross exam their abuser. This has been described as a continuation of the abuse. There are several legal and policy considerations that need to be taken into account in determining how to approach this problem.

The issue of coordination across concurrent and related proceedings has a long history across Canada. While there have been calls to address this concern, there is no easy answer. This project will explore where the crux of the problem is from the perspective of the parties and look for practical solutions.

Project Roadmap

The timelines for this work are ambitious. The Division is aiming to complete engagement and program design before the end of 2022 with implementation early in 2023. Funding sunsets in March 2026.

It is recognized that there are many initiatives and recommendations in the area of family justice responses to family violence. The Division hopes to learn from individuals who are doing related work, and to take a strengths-based approach to developing these initiatives.

The first round of conversations will focus on context and landscape setting. Staff will be speaking generally with sector leaders and focusing on practical advice and recommendations. Questions at this stage are:

- Where is the most potential for impact of programs like these?
- What you see as the biggest challenges programs like these face?
- What agencies are doing related / model work in Canada?
- Who else should we speak with?

Through these discussions we hope to identify where and what services are being provided, what the gaps might be and what would be helpful to prototype and evaluate as models. The funding is limited and likely will enable the development and operation of only a few prototypes which may or may not be location specific.

As much as possible the Division will look to build partnerships with stakeholders and users to design prototypes that meet the needs of particular communities.

Each of the prototypes will be evaluated and, where appropriate, business cases will be developed to support requests for ongoing funding.