

PRACTICE IN PROVINCIAL COURT INCLUDING
NAVIGATING THE NEW PROVINCIAL COURT RULES

Judge Kathryn Ferriss
Surrey Provincial Court

Tips for Using the Forms



Tips for Using the New Forms

- The rules and forms are designed to assist lay persons
- The emphasis is on mediation prior to attending court
- There is a form for every issue
- You may need to file multiple forms in some instances
- If you have not used the correct form, you will be unlikely to obtain the orders you seek
- Some of the forms are long in an effort to replicate an affidavit

Names of Application Forms

- Application about a Family Law Matter (Form 3)
- Application about a Protection Order (Form 12)
- Application about a Priority Parenting Matter (Form 15)
- Application for Order Prohibiting the Relocation of Child (Form 16)
- Application about Enforcement (Form 29)
- Application for Case Management Order (Form 10)
- Application for CMO without Notice or Attendance (Form 11)
- Request for Scheduling (Form 39)
- Application for FLM Consent Order (Form 17)

Completing the Forms

- Paper forms
- Fillable PDF forms
 - www.gov.bc.ca/courtforms/prov-family
- Guidebooks
 - When to use the form
 - Steps to complete, file and serve the form and information about attending the court appearance
 - Tips, guidance and prompts to referrals for completing specific sections of the forms
- Web-based application
 - <https://justice.gov.bc.ca/apply-for-family-order/>

Apply for a Provincial Court Family Law Act (FLA) Order

This service will help you fill out the forms needed to apply for family court orders:

- Protection Orders
- Parenting Arrangements
- Child Support
- Contact with a child
- Guardianship
- Spousal Support
- Case Management
- Priority Parenting Matters
- Relocation of a child
- Enforcement

How it Works?

1. Register or Login

To use the Online FLA Assistant you will need to set up a Basic BCeID account. If you do not currently have Basic BCeID account you can register for one by clicking the New User button below.

2. Answer Questions

Our free and secure online questionnaire will save your work so you can proceed at your own pace.

3. Print Your Forms OR Submit Your Application electronically

Once you're done with the questions, you'll print your papers and file at your local court registry. OR Submit them through our eFiling system by email.

SAFETY CHECK

If you think someone is monitoring your devices and you are concerned about your safety, visit this website from a computer, tablet, or smartphone that isn't monitored. Exit from this website and delete it from your browser history. For more information about creating a safety plan for using the internet and email, [click here](#).

[New User - Let's get started](#)

[Returning User?
Log In with BCeID](#)

Family Law Act App

<https://justice.gov.bc.ca/apply-for-family-order/>

What are you asking for (Orders)?

Please select each option you want to ask the court for an order about. You will be asked to give more details later.

[Where can I get legal assistance?](#) 

Protection from family violence

When a family member makes another family member feel unsafe, this is called [family violence](#). A protection order is the order made by a court to help protect one family member from another family member.

Family law matter

Family law matters include: parenting arrangements ([parental responsibilities](#) and [parenting time](#)), [child support](#), [contact with a child](#), [guardianship of a child](#) and [spousal support](#).

Case management

Case management includes administrative or procedural things that need to be done in a court case (usually by a specific time or in a specific way). Sometimes you need to get a case management order from the court to allow you to do something, or to make someone else do something so that you can continue the court case.

Priority parenting matter

[Priority parenting matters](#) are decisions about a child or children that require the agreement of each of the child's guardians or an order from the court and it is priority to get the order before, or separate from, any family law matter order(s). There is a limited list of priority parenting matters. You can ask for other parenting matter orders you may need under family law matters.

Relocation of a child

If you have a written agreement or order about parenting arrangements for a child and the other guardian is relocating with a child, you can apply to the court to prohibit the relocation. If you do not have a written agreement or order about parenting arrangements you may need an order about a family law matter or priority parenting matter depending on your circumstances to prevent changes to a child's residence.

Enforcement of agreements and court orders

If you have a written agreement or court order that the other party is not following, you can ask the court to help enforce it.

Family Law Matters



Family Law Matters

- Guardianship
- Parental Responsibilities
- Parenting Time
- Contact
- Child Support
- Spousal Support

Types of Registries Under the Provincial Court Family Rules

Part 2 – Early Resolution Registry	Part 6 – Family Justice Registry	Part 7 – Parent Education Program Registry
Surrey Victoria	Robson Square Kelowna Nanaimo	All other registries

Note: There are exceptions to the requirements set out in the Rules for specific circumstances or parties. A Financial Statement or Guardianship Affidavit may also be required when filing the Application about an FLM or Reply in all registries.

Before filing an Application or Reply about a family law matter:

- File a Notice to Resolve a Family Law Matter (one party)
- Participate in a needs assessment
- Complete a parenting education program
- Participate in consensual dispute resolution if appropriate

Before attending a family management conference on a family law matter:

- Participate in a needs assessment
- Complete a parenting education program
- Voluntary consensual dispute resolution

Before attending a family management conference on a family law matter:

- Complete a parenting education program
- Voluntary participation in a needs assessment and consensual dispute resolution

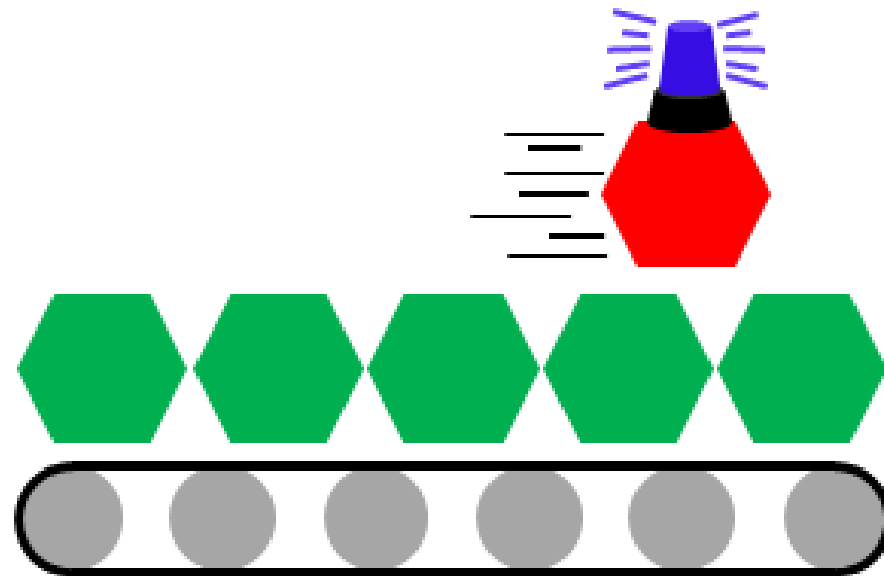
Family Management Conferences

- Family Management Conferences are only available on Applications about Family Law Matters and not other applications.
- They are the first time the parties will meet with a Judge.
- FMCs are on the record and usually two are scheduled over MS Teams for the same one hour time slot
- The Judge can make interim orders that are not by consent and final orders by consent
- Short affidavits can be helpful
- You should be prepared for an interim support order to be made because Financial Statements will have been filed.
- The outstanding issues are then set for trial

Other Applications



Priority Parenting Matters





PRIORITY PARENTING MATTERS

Giving, refusing or withdrawing consent, by a guardian, to medical, dental or other health-related treatments for a child, if delay will result in risk to the child's health;

PRIORITY PARENTING MATTERS (CONT'D)

- Applications for passports, licences or other things for a child, if delay will result in risk to child;
- Travel or participation in activity for a child where consent is alleged to have been wrongfully denied;
- **A change in location of a child's residence**, where there is no agreement or order in place **and** the change in residence could have significant impact on child's relationship with another guardian;
- relating to the removal of a child under section 64 of the Family Law Act.



PRIORITY PARENTING MATTERS (CONT'D)



- determining matters relating to interjurisdictional issues under section 74(2) (c) of the Family Law Act;
- relating to the alleged wrongful removal of a child under section 77(2) of the Family Law Act;
- Hague Convention matters

PRIORITY PARENTING MATTERS (CONT'D)

Where a child has been removed by the Ministry of Child and Family Development or there is a threatened removal and an order regarding guardianship or parenting arrangements would allow the Ministry to agree to return the child to the applicant.

NB: This application requires a form to be completed by the Ministry.



What is **NOT** a Priority Parenting Matter

- An application for parenting time unless it fits into the category where MCFD is involved
- An application for support
- An application for non-removal where the parents are separating **UNLESS** the change of residence can “reasonably be expected to have a significant impact on the child’s relationship with another guardian”
- Any issue that is not defined as a Priority Parenting Matter
- If it is not a Priority Parenting Matter, do not use the Application about a Priority Parenting Matter.

Protection Orders



Application About a Protection Order – Form 12

- Application form has different schedules, depending if you want to obtain a new protection order, to change an existing protection order, or to terminate an existing protection order
- Guided Affidavit
- Application is put in court the day of filing
- Registry drafts the protection order and arranges service of the order only unless the judge directs otherwise
- If protection order is changed, the existing order is terminated and a new protection order made
- Protection order is sent to the Protection Order Registry before the end of the day

Application for Order Prohibiting Relocation



Application for Order Prohibiting the Relocation of a Child – Form 16

To apply for an **order under section 69** of the *Family Law Act* prohibiting the relocation of a child, **and**
a **written agreement or order referred to in section 65** of the *Family Law Act* respecting parenting arrangements or contact with the child applies to the child

Note: There is no need to file an Application about a Family Law Matter or to complete the Early Resolution, Family Justice Registry requirements or Parenting after Separation for this Application. The matter will be set for hearing unless there is an agreement and parenting time orders can be made at the hearing

Applications for a Family Law Matter Consent Order, Applications about Enforcement, Applications for Case Management Orders, Request to Reschedule, and Notice of Intention to Proceed



Application for a Family Law Act Consent Order

Rule 81 says you need **three things**:

- Form 17 Application for a Family Law Matter Consent Order;
- the draft consent order; and
- possibly some further supporting materials, if Rules 25 or 26 apply – Financial Statement, Existing Order or Agreement, Guardianship Affidavit

However, if the application is to appoint a guardian for a child under section 51(2) FLA:

- The applicant “must provide evidence to the court, in accordance with the Supreme Court Family Rules or the Provincial Court (Family) Rules, respecting the best interests of the child as described in s. 37 of this Act.”
- Evidence is required regardless of it being by consent, and if the child is 12 or older, we cannot appoint a person other than a parent as the child’s guardian without the child’s written approval, unless satisfied that it is in the best interests of the child.
- Evidence may be by affidavit or the judge may require it to be set on a court list.

Application about Enforcement – Form 29

Used to enforce an order or filed written agreement regarding:

1. Parenting time or contact
2. Failure to exercise parenting time or contact
3. Orders for disclosure
4. Conduct orders
5. Orders generally

Not to be used to enforce orders or agreements for support

Applications for Case Management Orders (with or without notice or attendance) – Forms 10 and 11

- Self-explanatory
- Orders are set out in Rule 62
- Rule 62 references a conduct order, but it does not mean a conduct order under the *Family Law Act*, it relates to conduct of a trial
- Use Form 10 if you need to set aside an order made in your client's absence
- Alternate service will not be granted for the sake of expediency. Provide as much information as possible on the form.

Request for Scheduling – Form 39

This form is to be used to get your application back on track where:

1. matter was adjourned generally by the court;
2. matter was struck off the court list by the court without setting a new date;
3. an order or direction was made by the court referring or requiring the party/parties to attend, participate or complete a requirement before returning to court
4. an order or direction was made by the court requiring that a deficiency under these rules be addressed by a party before returning to court
5. an order was made by the court providing for the review of the order
6. an interim order was made by the court and you are applying for the interim order to be changed, suspended or cancelled under section 216(3) of the *Family Law Act*;
7. Your client attended a family management conference regarding this matter and you want an interim order under section 216 or 217 of the *Family Law Act*.

Notice of Intention to Proceed – Form 2

- Use this form if more than one year has passed without the parties taking any step in the case.
- The Notice of Intention to Proceed must be served on the other party and a Family Management Conference must be held before any other court dates are set.
- If your client has only **interim orders** on an issue, do **not** commence a new Application about a Family Law Matter – use Form 39 or, if a year has passed, Form 2 in order to get the matter on track.

Urgent Family Law Matters



Urgent Family Law Matters

- Urgent does not mean “urgent” to your client
- Must be outside of the usual urgency of newly separated parties
- Look at Item D80 on the current picklist – available on PC website
- D80 is currently being changed, so stay tuned

Urgent Family Law Matters

- You need to file an Application for a Case Management Order without Notice or Attendance, attaching your Application about a Family Law Matter, asking to:
 - Waive or defer whatever pre-court requirements your client has not done;
 - Defer the requirement for your client to file a Financial Statement (if required);
 - Obtain an Order that the Application about a Family Law matter is to be filed forthwith if the file is in Surrey or Victoria.

Urgent Family Law Matters

- You will need to have the Application about a Family Law Matter and other documents personally served on the other side unless your situation qualifies for an order for alternate service.
- The Order will set out the documents you need to serve.
- The registry will not email the documents to you unless the Judge orders it
- Make sure you provide your available dates so the matter can be set down.
- If truly urgent, you can ask for an *ex parte* order.

Urgent Family Law Matters

- The judge will only deal with the urgent Family Law Matter - the discreet issue - and refer your client back to complete the pre-court requirements
- If you apply for a Protection Order and need a Family Law Matter dealt with at the same time due to urgency, make sure you get the Application about a Family Law Matter before the judge at the same time as your Application about a Protection Order.

Things to Remember

- Defined terms – does your issue fit into them?
- For every issue, there is a form
- What type of Court Registry is the file in?
- Make sure you are prepared in your Family Management Conference, because the Judge can make orders without consent
- Do not file another Application about a Family Law Matter if you only have interim orders respecting that issue
- Short affidavits may be helpful, long ones usually are not
- Urgent applications are not necessarily what your client thinks is urgent

