



SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

NOTICE TO THE PROFESSION AND GENERAL PUBLIC: UPCOMING RULE AMENDMENTS

The Rules Committee of the Supreme Court has recently approved amendments to many of the family law forms set out in the *Rules of the Supreme Court, 1986*. These amendments will be published in the Newfoundland and Labrador Gazette on February 26, 2021, and will come into force on March 1, 2021.

The following forms will be amended: F4.03A; F4.04A; F5.05A; F5.06A; F6.02A; F8.03A; F10.02; F11.02; F16.03A; F17.03; F23.01A; F23.02A; F23.05A; F25.03A; F26.02A; F29.02A; F31.02A; F34.02B; F34.02C; F38.04A; F38.04B; F38.06A. Some of these amendments were necessary as a result of [amendments to the *Divorce Act*](#), which will also come into force on March 1, 2021. Others address issues noted to the Court by practitioners. This Notice provides a general outline of the significant amendments.

Please note that a prior [amendment to the family law forms](#) (N.L.R. 46/20, s. 34(2)), filed on July 2, 2020, and set to come into force on March 1, 2021, is repealed.

FAMILY LAW FORM AMENDMENTS

Parenting Orders

Beginning on March 1, 2021, the *Divorce Act* will no longer use the terms “custody” or “access”. Instead, the Act will refer to “parenting orders”, which deal with parenting time and/or decision-making responsibility with respect to a child.

To reflect this change, instances of the words “custody” and “access” were replaced with “parenting order”, “parenting time” or “decision-making”, as appropriate, throughout all of the forms. The term “custodial parent” was replaced with “the parent to whom parenting time and decision-making responsibility have been allocated”.

Contact Orders

The new provisions of the *Divorce Act* will permit a person who is not a parent of a child to apply for a “contact order”, which would permit them to visit or communicate with the child. The forms were similarly amended to permit persons to apply for a “Contact Order”. This amendment involved, among other changes, adding a schedule to the Originating Applications and Response form so that parties could provide information necessary to determine claims for Contact Orders.

When you can bring an Emergency Interim Application

In a prior [amendment to the Rules of the Supreme Court, 1986](#), the Court amended rule F17.02(1)(a)(ii) to state that a party may make an emergency interim application where there is “an immediate danger to the physical, emotional or psychological safety and security of a child or another person”. This change, which will come into force on March 1, 2021, was adopted to reflect new language included in the *Divorce Act*. For example, at subsection 16(2) the *Divorce Act* will now state that “the court shall give primary consideration to the child’s physical, emotional and psychological safety, security and well-being” when considering the best interests of the child.

The Emergency Interim Application Form has now been similarly amended to state that an individual can make such an application where “There is an immediate danger to the physical, emotional or psychological safety and security of a child or another person”.

Lawyer’s Certificate

All Originating Applications and the Response Form were amended to include a “lawyer’s certificate”. The lawyer’s certificate must be completed by the lawyer where their client is applying for divorce. The certificate requires lawyers to certify that they have complied with the new s. 7.7 of the *Divorce Act*. That section requires lawyers to advise their clients with respect to reconciliation and alternative dispute resolution options.

Filing an Originating Application to Vary to Amend the Terms of a Domestic Contract

The Originating Application for Variation and the Joint Originating Application for Variation forms were amended to clarify that an individual can apply to vary a domestic contract that has been filed with the Court, in accordance with s. 42(2)(b) of the *Family Law Act*.

Interpreter Fees

All Originating Applications and the Response Form were amended to clarify that a party that requires an interpreter is responsible for arranging for the interpreter to attend at court. It also clarifies that the person requiring the interpreter will be responsible for the associated cost, unless a judge orders otherwise.

Listing Parents on the Forms

All Originating Applications and the Response form were amended to provide a space for listing all parents of a child. Previously the forms asked for the “mother’s” and “father’s” name. This failed to take into account the situation of same sex parents and blended families.

Providing Information Regarding prior Involvement of CSSD

All Originating Applications and the Response Form were amended to specify that parties must list the details of any current or ongoing court proceedings, court orders, and/or written agreements involving the parties and/or the children, including all Provincial Court matters, criminal matters, proceedings in other provinces or countries, peace bonds, emergency protection orders, restraining orders, no-contact orders, safety plans, family centered action plans, and kinship care agreements or any other agreements stemming from CSSD involvement.

Requests for Trial – Trial Readiness Questions

The Request for Trial form (F29.02A) was amended to require parties to indicate how they have met the alternative dispute resolution requirement set out in rule F20.02. Where parties have participated in a settlement conference, the form also requires parties to list the settlement conference judge (in order to avoid conflicts in the assignment of the trial judge).

OLD FORMS

The Supreme Court registry will continue to accept the family law forms currently set out in the *Rules of the Supreme Court, 1986*, until April 30, 2021.

FURTHER INFORMATION

If you have any questions regarding these recent amendments, please direct them to the Supreme Court's inquiries email address: supcourtinquiries@supreme.court.nl.ca.

RAYMOND P. WHALEN
Chief Justice