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British Columbia News

Changes to Family Law Act will make it easier for separating couples

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Proposed amendments to the Family Law Act will clarify the law around pets, property and pensions to better meet the modern-day needs of separating couples.

“Going through a separation or divorce can be an incredibly difficult experience,” said Niki Sharma, Attorney General. “To help make life easier for couples going through a separation, we’re introducing amendments to the Family Law Act that better reflect the priorities and values of people today, including making sure the important role pets play in families is considered in the separation process.”

If passed, the amendments will provide more guidance for parties and judges when determining how to address ownership and possession of pets. The act will require consideration of factors such as each person’s ability and willingness to care for the animal and the relationship a child has with it, as well as if there is a risk of family violence, threat of cruelty to an animal, and more.

“These amendments reflect how pets are valued as unique family members by society rather than as inanimate property like furniture,” said V. Victoria Shroff, animal law specialist at Shroff and Associates. “Having relevant factors to consider for these difficult decisions will bring more clarity and is a welcome change.”

Another amendment will make it easier to equitably divide property by preventing the use of the outdated principle of the “presumption of advancement” to decide how property is divided under the act. Historically, this principle applied only to property transferred from husband to wife, not a wife to their husband, or between same-sex spouses or unmarried spouses.

“Times have changed, so it’s important that our legislation does as well. During a separation, outdated presumptions aren’t helpful in solving today’s challenges and only serve to remind us of the inequities deeply rooted in society,” said Kelli Paddon, Parliamentary Secretary for Gender Equity. “Removing the presumption of advancement reaffirms that we’re taking action to build a better, more inclusive province for everyone.”

Changes to the act also include updates to sections that govern the division of pensions to align with the current practice of pension-plan administrators based on recommendations from a BC Law Institute (BCLI) report.

“The BCLI is pleased to see the introduction of legislation implementing the expert project committee’s recommendations to improve pension division,” said Kevin Zakreski, staff lawyer with BCLI. “This legislation will ensure that British Columbians continue to benefit from the best and most comprehensive set of rules on pension division in Canada.”

These changes are based on feedback from Phase 1 of a multi-year review of the Family Law Act to address changes in society, as well as developments in case law. The review is taking place in three phases to allow the Province, Indigenous Peoples, legal stakeholders and people throughout B.C. to continue working together to modernize the act to ensure it remains reflective of today’s family dynamics.

Learn More:

To view the 2022 Family Law Act Modernization Project Phase 1 What We Heard Report, visit:

<https://engage.gov.bc.ca/app/uploads/sites/121/2023/02/FLA-Modernization-Phase-1-WWHR-FINAL.pdf>

<https://engage.gov.bc.ca/app/uploads/sites/121/2023/02/FLA-Modernization-Phase-1-WWHR-FINAL.pdf>

(<https://engage.gov.bc.ca/app/uploads/sites/12/2023/02/FLA-Modernization-Phase-1-Review-Final.pdf>)

To learn more about the BC Law Institute's Pension Division Review Project report, visit:

<https://www.bcli.org/project/pension-division-review-project/> (<https://www.bcli.org/project/pension-division-review-project/>)

To learn more about the Family Law Act Modernization, visit:

<https://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/legislation-policy/current-reviews/family-law-act-modernization> (<https://www2.gov.bc.ca/gov/content/justice/about-bcs-justice-system/legislation-policy/current-reviews/family-law-act-modernization>)

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Translations

- FamilyLawAct_Chinese(simplified).pdf ([https://bcgovnews.azureedge.net/translations/releases/2023AG0020-000389/FamilyLawAct_Chinese\(simplified\).pdf](https://bcgovnews.azureedge.net/translations/releases/2023AG0020-000389/FamilyLawAct_Chinese(simplified).pdf))
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Acknowledgment

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