



Evaluation shows “Early Resolution Model” helped families resolve disputes without court battles

Improving the justice system requires willingness to try new things, evaluate them, make improvements, keep what works, and replace what doesn't. The BC Provincial Court and the provincial government have been engaged in a process like this to improve the family justice system. A new user-centred approach called “the Early Resolution and Case Management Model” (the Model) was implemented in Victoria in 2019. An evaluation shows it has helped families in Victoria resolve disputes without court battles.

The Model works by providing information, a needs assessment, and referrals to meet families' non-legal as well as legal needs, early in the dispute resolution process. The Model also includes one consensual dispute resolution (CDR) session before parties file court applications, unless CDR is not appropriate.

Family violence

Specially trained Family Justice Counsellors conduct the initial needs assessments. These assessments involve separate meetings with each party before they file a court application. They are intended to identify and respond to family violence better. In traditional court proceedings where the parties always appear in court together and the time for court appearances may be limited, family violence is sometimes not disclosed.

Early identification of family violence issues enables them to be addressed throughout the dispute resolution process. Early assessment of a family's needs and appropriate referrals have proven effective in providing better support for parties as they navigate the family justice system.

Where family violence is an issue, Family Justice Counsellors:

- provide parties with information about safety planning, protection orders, and the effects of violence on adults and children
- provide referrals to appropriate services including victims' services agencies, lawyers, police, and transition houses
- assess whether CDR is appropriate.

The Family Justice Counsellor may determine that issues such as power imbalance, safety, or

family violence adversely affect safety and/or the ability of a party to negotiate a fair agreement through a CDR process. When they identify these issues, there may be an opportunity to design the CDR process in a manner that mitigates those dynamics, or it may not be appropriate to proceed to CDR at all.

The views of family violence survivors are considered. Some want to try CDR to resolve issues without going to court. They'll be given an opportunity to discuss with a CDR professional whether a safe process can be designed, perhaps involving support people and/or without joint meetings. Others aren't comfortable with CDR and want support in preparing for court proceedings. When CDR is not appropriate, the parties proceed directly to court.

People who fear family violence can still apply for a protection order and obtain a hearing quickly – on the same day when there is a risk of imminent harm or danger to the applicant or children. The evaluation shows that applicants for protection orders in Victoria had first court appearances earlier under the Model than before it was implemented.

A staged process

Implementing the Model in Victoria was part of a staged process to try different approaches in different areas of the province so results could be compared. The Court had been working collaboratively with government and a variety of stakeholders for several years to draft new *Provincial Court Family Rules*.

The model implemented key aspects of those Rules, including new forms and court procedures, in the Victoria prototype in May 2019, enabling comparisons between the experience in Victoria and that in other court locations that continued to operate under existing Rules.

When preliminary evaluation of the model was positive, it was implemented in Surrey in December 2020 to help deal with backlog related to COVID and provide its advantages to families in BC's busiest family court.

The new Rules took effect throughout BC in May 2021. They apply the full Model in Victoria and Surrey and different aspects of it in other registries, based in part on availability of resources.

Evaluation

The [final evaluation](#) of the Model's performance in Victoria was published recently. It included interviews and surveys of families and stakeholders including Family Justice Counsellors, mediators, family violence workers, community groups, judges, lawyers, and court staff. Evaluators also analysed data from the Provincial Court and the Family Justice Services Division of the Ministry of the Attorney General (responsible for carrying out the pre-court stages of the model in Justice Access Centres).

Report's findings

- Over 80% of the people surveyed felt needs assessment was helpful and should be required for people facing family law issues.

- Over 85% felt consensual dispute resolution was helpful and should be required.
- 69% of families did not proceed to court with unresolved issues after initiating resolution of family law matters (parenting arrangements, guardianship, contact, child support and spousal support) through the early resolution process.
- The 31% who proceeded to court had often narrowed their issues through assessment and consensual dispute resolution, so their case could be managed in a timelier way.

Victoria Provincial Court experienced these reductions in family law cases filed:

- a 63% reduction in total court time for new family cases
- 71% fewer adjournments and 53% fewer overall court appearances as parties were better prepared and Family Management Conferences became more meaningful
- a sharp reduction in cases taking more than 100 minutes of court time
- fewer cases requiring a trial

Other court locations compared with Victoria experienced either increases or smaller reductions in all these indicators.

The reduction in court time needed for new family law cases freed up judicial resources to deal with other types of cases.

Participants reported having improved their understanding of their legal and non-legal needs, the family justice process, and the available options, due to their participation in the Model.

The evaluation report offers ten recommendations for improvement, and some of them have already been addressed. For example, most applications can now be e-filed directly using the [Provincial Court Family Law Act Online Forms Service](#). Steps are also being taken to respond to recommendations about service to victims of family violence. For example, a review of the family violence assessment tool is being completed and training for Family Justice Services Division staff is ongoing.

The Court and Ministry of the Attorney General are committed to a “continuous improvement” approach in which consultation with stakeholders will continue, and adjustments will be made based on the feedback received.

[Final evaluation report](#)

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