

## B.C. set to overhaul laws for divorce, child custody

The Canadian Press

Published Monday, November 14, 2011 5:00PM PST

**Children's rights and safety are at the forefront of a new law pertaining to family breakups in British Columbia, and anti-violence advocates say that could save lives.**

The family law reforms introduced Monday propose eliminating the terms custody and access in family separation agreements involving children and replacing them with less adversarial terms of guardianship and parental responsibility.

Attorney General Shirley Bond said the Family Law Act was five years in the making and represents the first overhaul of provincial family law since 1978.

### PHOTOS



Wedding ring (CP PHOTO/Andrew Vaughan)

"This has been a long time coming and it's time to make these changes," Bond said.

"We want this bill to be successful," she said. "It is a very significant piece of legislation for our province. We will be the leader in some areas and we're playing catchup in others."

The Opposition New Democrats have said they expect to support the bill, which could be passed into law within two weeks, but is expected to take up to 18 months to become fully integrated into the province's legal system.

Cases where violence is, or could be, an issue in families will be considered Criminal Code matters, meaning police and justice officials will become involved almost immediately.

Bond said the new law creates a new protection order to address family violence that makes breaching the order a criminal offence.

"There's actually a definition of family violence now that includes things like psychological and emotional abuse," she said. "We've said if there is someone at risk, particularly in terms of family violence, a broader group of people can actually seek a protection order and the judge could then make a specific protection order."

But Bond wouldn't say whether the proposed law would have prevented two tragic B.C. family murder incidents -- the five-person Lee family murder-suicide in Oak Bay in October 2007 and the April 2008 deaths of the three Schoenborn children in Merritt at the hands of their father.

"I certainly don't want to speculate about that," Bond said. "We certainly have learned lessons from those circumstances."

In both cases, the fathers, Peter Lee and Allan Schoenborn, were under legal orders to stay away from their families, but that didn't stop them.

End Violence Association of B.C. executive director Tracy Porteous said the new law has the potential to save lives because family violence issues immediately would immediately involve the Criminal Code.

She said that if the new law had existed in 2007, it may have played a role in saving four members of the Lee family, including six-year-old Christian, all stabbed to death by his father Peter Lee, who then took his own life.

"I completely believe that this legislation has the potential to save lives," Porteous said.

"We know that when women and children take steps to leave an abusive and high-risk relationship in the context of divorce and separation that's when they are most often killed, which was the case of Sunny Park here in Victoria and her son, Christian, and her parents."

The law also includes new relocation provisions -- the first in Canada -- that allow a separated parent to move to another jurisdiction with their children.

The Liberal government has been reviewing ways to overhaul the law since last July, and Premier Christy Clark promised to tackle the issue in last month's throne speech.

The overall goal of the new law aims to ensure courts no longer serve as the starting point for settling family disputes that could be resolved through mediation, for example.

In a briefing prior to the introduction of the new law, government officials in the Ministry of the Attorney General said the reforms focus on making safety of the child the only consideration.

The law also makes it easier to divide property assets for common-law couples, while allowing them to keep assets or inheritances that pre-date the relationship.

It also better defines the legal parents of children conceived through assisted reproduction, stating the husband and wife, not the donor, are granted that standing.

3/10/2014

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Nancy Carter, a law expert for the Attorney General's Ministry, said the massive overhaul of the law is in keeping with changing family dynamics.

"Families look very different than what they looked like in 1978," she said. "Our thinking about how best to resolve family disputes has changed quite a bit."

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