



On February 15, 2024, the Province of British Columbia announced an increase in access to legal aid services, including opening a new multi-disciplinary family law clinic by the end of 2024, and an expansion of legal aid eligibility criteria.

This followed 7 years of tireless work by West Coast LEAF and the Centre for Family Equity (formerly the Single Mothers Alliance), and rests on the bravery of an incredible group of mothers, who stood up and fought for women across the province, and for access to justice.

For those who lack knowledge of the family law system, or of legal aid, it can be hard to understand exactly what this means for women experiencing violence, so we are going to break down for you the history of legal aid cuts, the current need in the province, and how this new funding will help women experiencing violence, and what its limits are.

History of legal aid cuts

This funding is part of an effort by the current BC government to restore funding to BC's legal aid system, following devastating cuts in the early 2000s.

In the 1990s Legal Aid BC delivered criminal, family and poverty law services to clients using a mixed model of service delivery. This means that the system included both salaried staff lawyers working full time at legal aid clinics, and a referral or certificate model which clients could use to get services from a private lawyer. **At that time there was a province-wide network of over 60 legal aid branches, community law clinics, Aboriginal community law offices.**

In 2002, Premier Gordon Campbell slashed the legal aid budget by almost 40% over three years. Continuing cuts meant clinics were cut as part of a widespread attack on social services, which eliminated the Ministry of Women's Equality, the Human Rights Commission, and the beginnings of a universal daycare program. They cut funding to women's centres, lowered welfare rates, relaxed employments standards, tore up teacher's contracts, and privatized public sector jobs that were filled predominantly by women.

Cuts to legal aid were not experienced evenly across all programs; Family law was dramatically reduced, and poverty law was eliminated altogether, meaning the programs that were primarily accessed by women received the deepest cuts. Family law legal aid funding was cut by a total of 60%.

The last clinic in the province shuttered its doors in 2009 after a further round of cuts. The number of family law clients who were approved for legal aid dropped from 15,500 in 2001, to fewer than 4,500 in 2012. In 2023, there were 8933 requests for family law legal aid, and only 5,294 contracts were approved.



This restructuring marked the end of what we would call a mixed model of legal aid delivery in family law, and since then BC has used a model that is almost entirely services from private lawyers, “the private bar model”. Under the private bar model, when a person qualifies for legal aid, they receive what is called a certificate. Once a client receives a certificate they have to locate a private family lawyer who is prepared to accept their case at legal aid rates. This has proved challenging, with many clients spending months looking for a lawyer who is willing to work with them after they have technically qualified for legal aid.

The announcement

Today’s announcement on the expansion of funding is a good start for increasing support for women experiencing violence.

In 2017, a constitutional challenge was brought against the Province of BC and Legal Aid BC by the Centre for Family Equity (formerly the Single Mothers Alliance), and two courageous co-plaintiffs with lived experience in the family legal system, in partnership with and represented by West Coast LEAF. The case, launched in April 2017, alleged that BC has a constitutional responsibility under the *Charter of Rights and Freedoms* to ensure access to the family law system for women who are fleeing violent relationships or are facing ongoing abuse from ex-spouses. CFE argued that BC’s legal aid system violates women’s constitutionally protected rights to equality, life and security of the person, and access to justice by increasing their risk of exposure to violence.

This announcement was the outcome to this case - a settlement reached with the Province and Legal Aid BC.

Under this settlement agreement we will see our first government-funded family law legal aid clinics opened by the province since the last closed in 2009. Clinics provide a safety net for complex cases that will otherwise fall through the cracks. They do this by employing full-time, salaried lawyers whose job it is to take files that qualify for legal aid without being forced to make a choice between representing their clients effectively and working without pay. They are efficient because lawyers working in clinics can share resources, research and precedents, and they allow for different clinics to build expertise in particular areas like family violence. Unlike private certificates they also incorporate means and measures for ensuring that staff are appropriately trained and to monitor the quality of service. This doesn’t mean completely doing away with the certificate model, but clinics are an important addition to legal aid coverage.

How this funding will help, and what are its limits

It is critical to note that this new clinic is not going to be able to serve everyone in BC.

This is going to have a significant impact for many women in BC, but BC has a population of 5 million people, and the clinic won't be able to meet all of the current needs that exist right now. There were nearly 9000 requests for legal aid contracts for family law legal aid contracts last year. When legal aid increases their eligibility criteria as a result of this settlement, we can expect that the number of requests for service will also increase.

One of the things we are most thrilled to see in the settlement agreement is that for clients who working with private lawyers on certificates the number of hours of legal help will increase, up to a maximum of 60 hours. Lack of legal aid hours has been a significant issue for our clients, and this is another huge win for them.

Until the announcement today, a family law certificate allowed for only 35 hours of preparation plus court time at around \$128 for a lawyer with 5 years' experience. Many lawyers have refused to accept legal aid certificates because the rate of pay is much less than lawyers could charge at market rate. However another major barrier has been the limited number of hours of preparation – since legal aid primarily funds complex and urgent family law cases, lawyer who accept legal aid files are often faced with a choice of not completing all of the necessary work for the client or working without pay for extended periods. While we don't know what impact the new cap of 60 hours will have, we hope that this will lead to more lawyers being willing to take legal aid files due to fairer compensation.



The current need in BC

Despite changes to the Family Law Act and Divorce Act to better take violence into account, the family law system remains a very unsafe place for a lot of survivors of violence.

There are physical risks to attending courthouses, and we've heard from many survivors that courthouses don't feel safe for them to attend. Particularly in small courthouses around the province, there is often a lack of physical space which means people have to wait in shared spaces with people who abused them. Some people have been followed or harassed when they enter or exit the courthouse. You can read more about this in our [2022 Courthouse Safety report](#).

Canadian expert, Dr. Peter Jaffe, has identified four stages that women experience when reporting a history of domestic abuse in family court: First, not being believed; then being believed, but having the violence minimized; then being told that the violence is an adult issue and not relevant for the children; and, finally, recognition of the impact of the violence but being told to get over it and become a co-parent and put the past behind them.

Our conversations and research with women and our clients in BC echo Dr. Jaffe's analysis and confirm that BC's legal system is not only still ineffective in responding to family violence, but can even exacerbate the risk to women and children who are trying to gain safety. Through our conversations with women around BC we identified several key themes:

1. Women's experiences of violence are frequently not believed by police, lawyers, and judges.
2. If legal professionals do believe that violence has occurred, it is minimized.
3. As a result of family violence either not being believed, or being minimized, women are frequently told by their lawyers, and in some cases directly by judges, not to bring up evidence of family violence.
4. Many women, front-line workers, and legal professionals believe that judges frequently emphasized ensuring the child's relationship with a father over safety considerations.

There is enormous pressure on women to "look reasonable" which means that women are discouraged from asking for the orders that would make them and their children safe, in favour of asking for what will make them look reasonable. This process of downplaying safety needs in order to avoid being labelled as selfish or alienating has the effect of erasing family violence. There is also a prevalent myth that once the relationship has ended so has the violence.

You can read more about all of these issues in our report, [Why Can't Everyone Just Get Along?](#)

This settlement brings us one step closer to access to justice for women in BC. While there is still a long way to go, it is important to celebrate how far we have come, and let it sustain us as we keep moving forward. We are thrilled by this announcement, and we can't wait to see the impact of the rollout of these funding increases.

