

Moving Ontario Family Law Forward Act, 2020, S.O. 2020, c. 25 - Bill 207

CHAPTER 25

An Act to amend the Children's Law Reform Act, the Courts of Justice Act, the Family Law Act and other Acts respecting various family law matters

Assented to November 20, 2020

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation

may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Moving Ontario Family Law Forward Act, 2020*.

**SCHEDULE 1
CHILDREN'S LAW REFORM ACT**

1 The heading to Part III of the *Children's Law Reform Act* is repealed and the following substituted:

**PART III
DECISION-MAKING RESPONSIBILITY, PARENTING TIME, CONTACT AND
GUARDIANSHIP**

2 The heading before section 18 and sections 18 to 21 of the Act are repealed and the following substituted:

INTERPRETATION AND PURPOSES

Definitions and interpretation, Part III

18 (1) In this Part,

“contact” means the time a child spends in the care of a person other than the child’s parent, whether or not the child is physically with the person during that time; (“contact”)

“contact order” means an order made under section 28 respecting contact with respect to a child; (“ordonnance de contact”)

“court” means the Ontario Court of Justice, the Family Court or the Superior Court of Justice; (“tribunal”)

“decision-making responsibility” means responsibility for making significant decisions about a child’s well-being, including with respect to,

(a) health,

(b) education,

(c) culture, language, religion and spirituality, and

(d) significant extra-curricular activities; (“responsabilité décisionnelle”)

“extra-provincial order” means an order of an extra-provincial tribunal, and includes part of an order; (“ordonnance extraprovinciale”)

“extra-provincial tribunal” means a court or tribunal outside Ontario that has jurisdiction to make orders respecting decision-making responsibility, parenting time or contact with respect to a child; (“tribunal extraprovincial”)

“family member” includes a member of a household of a child or of a parent, as well as a dating partner of a parent who participates in the activities of the household; (“membre de la famille”)

“family violence” means any conduct by a family member towards another family member that is violent or threatening, that constitutes a pattern of coercive and controlling behaviour, or that causes the other family member to fear for their own safety or for that of another person, and, in the case of a child, includes direct or indirect exposure to such conduct; (“violence familiale”)

“parenting order” means an order made under section 28 respecting decision-making responsibility or parenting time with respect to a child; (“ordonnance parentale”)

“parenting time” means the time a child spends in the care of a parent of the child, whether or not the child is physically with the parent during that time; (“temps parental”)

“relocation” means a change in residence of a child, or of a person who has decision-making responsibility or parenting time with respect to the child or is an applicant for a parenting order in respect of the child, that is likely to have a significant impact on the child’s relationship with,

- (a) another person who has decision-making responsibility or parenting time with respect to the child or is an applicant for a parenting order in respect of the child, or
- (b) a person who has contact with respect to the child under a contact order; (“déménagement”)

“separation agreement” means an agreement that is a valid separation agreement under Part IV of the *Family Law Act*. (“accord de séparation”)

“Family violence”

(2)) For the purposes of the definition of “family violence” in subsection (1), the conduct need not constitute a criminal offence, and includes,

- (a) physical abuse, including forced confinement but excluding the use of reasonable force to protect oneself or another person;
- (b) sexual abuse;
- (c) threats to kill or cause bodily harm to any person;
- (d) harassment, including stalking;
- (e) the failure to provide the necessities of life;
- (f) psychological abuse;
- (g) financial abuse;

- (h) threats to kill or harm an animal or damage property; and
- (i) the killing or harming of an animal or the damaging of property.

Child

(3) A reference in this Part to a child is a reference to the child while a minor.

Not material change in circumstances

(4) The enactment or coming into force of any provision of Schedule 1 to the *Moving Ontario Family Law Forward Act, 2020* does not in itself constitute a material change in circumstances under this Part.

References to custody, etc.

(5) Unless the context requires otherwise, a reference in an Act or regulation to custody of a child, including lawful custody or legal custody of a child, includes reference to decision-making responsibility with respect to the child under this Act.

References to access, etc.

(6) Unless the context requires otherwise, a reference in an Act or regulation to access to a child, including a right of access, a legal right of access, a lawful right of access or a lawful entitlement to access to a child, includes reference to parenting time or contact, as the case may be, with respect to the child under this Act.

Purposes, Part III

19 The purposes of this Part are,

- (a) to ensure that applications to the courts respecting decision-making responsibility, parenting time, contact and guardianship with respect to children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in relation to the determination of decision-making responsibility with respect to the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of decision-making responsibility by due process; and
- (d) to provide for the more effective enforcement of parenting orders and contact orders, and for the recognition and enforcement of orders made outside Ontario

that grant decision-making responsibility, parenting time or contact with respect to a child.

DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT

Equal entitlement to decision-making responsibility

20 (1) Except as otherwise provided in this Part, a child's parents are equally entitled to decision-making responsibility with respect to the child.

Rights and responsibilities

(2) A person entitled to decision-making responsibility with respect to a child has the rights and responsibilities of a parent in respect of the child, and must exercise those rights and responsibilities in the best interests of the child.

Authority to act

(3) If more than one person is entitled to decision-making responsibility with respect to a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

If parents separate

(4) If the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other, the right of the other to exercise the entitlement to decision-making responsibility with respect to the child, but not the entitlement to parenting time, is suspended until a separation agreement or order provides otherwise.

Parenting time

(5) The entitlement to parenting time with respect to a child includes the right to visit with and be visited by the child, and includes the same right as a parent to make inquiries and to be given information about the child's well-being, including in relation to the child's health and education.

Marriage of child

(6) The entitlement to decision-making responsibility or parenting time with respect to a child terminates on the marriage of the child.

Entitlement subject to agreement or order

(7) Any entitlement to decision-making responsibility or parenting time under this section is subject to alteration by an order of the court or by a separation agreement.

Application for parenting order or contact order

Parenting order, application by parent

21 (1) A parent of a child may apply to a court for a parenting order respecting,

- (a) decision-making responsibility with respect to the child; and
- (b) parenting time with respect to the child.

Parenting order, application by non-parent

(2) Any person other than the parent of a child, including a grandparent, may apply to a court for a parenting order respecting decision-making responsibility with respect to the child.

Contact order

(3) Any person other than the parent of a child, including a grandparent, may apply to a court for a contact order with respect to the child.

Affidavit

(4) An application under subsection (1) or (2) for a parenting order or subsection (3) for a contact order shall be accompanied by an affidavit, in the form specified for the purpose by the rules of court, of the person applying for the order, containing,

- (a) the person's proposed plan for the child's care and upbringing;
- (b) information respecting the person's current or previous involvement in any family proceedings, including proceedings under Part V of the *Child, Youth and Family Services Act, 2017*, or in any criminal proceedings; and
- (c) any other information known to the person that is relevant to the factors to be considered by the court under section 24 in determining the best interests of the child.

3 (1) Subsection 21.1 (1) of the Act is amended by striking out "for custody of a child" and substituting "for a parenting order respecting decision-making responsibility with respect to the child".

(2) Subsection 21.1 (3) of the Act is amended by striking out "24 (3)" and substituting "24 (5)".

4 (1) Subsection 21.2 (2) of the Act is repealed and the following substituted:

Request for report

(2) Every person who applies under section 21 for a parenting order respecting decision-making responsibility with respect to a child and who is not a parent of the child shall submit a request, in the form provided by the Ministry of the Attorney General, to every society or other body or person prescribed by the regulations, for a report as to,

- (a) whether a society has records relating to the applicant; and
- (b) if there are records and the records indicate that one or more files relating to the applicant have been opened, the date on which each file was opened and, if the file was closed, the date on which the file was closed.

(2) Subsection 21.2 (8) of the Act is amended by striking out “24 (3)” and substituting “24 (5)”.

5 (1) Subsections 21.3 (1) and (2) of the Act are repealed and the following substituted:

Other proceedings, non-parents

(1) If an application for a parenting order respecting decision-making responsibility with respect to a child is made by a person who is not a parent of the child, the clerk of the court shall provide to the court and to the parties information in writing respecting any current or previous family proceedings involving the child or any person who is a party to the application and who is not a parent of the child.

Same

(2) If an application for a parenting order respecting decision-making responsibility with respect to a child is made by a person who is not a parent of the child, the court may require the clerk of the court to provide to the court and to the parties information in writing respecting any current or previous criminal proceedings involving any person who is a party to the application and who is not a parent of the child.

(2) Subsection 21.3 (5) of the Act is amended by striking out “24 (3)” and substituting “24 (5)”.

6 Sections 22 to 29 of the Act are repealed and the following substituted:

Jurisdiction

22 (1) A court shall only exercise its jurisdiction to make a parenting order or contact order with respect to a child if,

- (a) the child is habitually resident in Ontario at the commencement of the application for the order; or

- (b) the child is not habitually resident in Ontario, but the court is satisfied that,
- (i) the child is physically present in Ontario at the commencement of the application for the order,
 - (ii) substantial evidence concerning the best interests of the child is available in Ontario,
 - (iii) no application respecting decision-making responsibility, parenting time or contact with respect to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,
 - (iv) no extra-provincial order respecting decision-making responsibility, parenting time or contact with respect to the child has been recognized by a court in Ontario,
 - (v) the child has a real and substantial connection with Ontario, and
 - (vi) on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Habitual residence

(2) A child is habitually resident in the place where the child resided in whichever of the following circumstances last occurred:

1. With both parents.
2. If the parents are living separate and apart, with one parent under a separation agreement or with the consent, implied consent or acquiescence of the other or under a court order.
3. With a person other than a parent on a permanent basis for a significant period of time.

Abduction

(3) The removal or withholding of a child without the consent of all persons having decision-making responsibility with respect to the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious harm to child

23 Despite sections 22 and 41, a court may exercise its jurisdiction to make or vary a parenting order or contact order with respect to a child if,

- (a) the child is physically present in Ontario; and

- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
 - (i) the child remains with a person legally entitled to decision-making responsibility with respect to the child,
 - (ii) the child is returned to a person legally entitled to decision-making responsibility with respect to the child, or
 - (iii) the child is removed from Ontario.

Best interests of the child

24 (1) In making a parenting order or contact order with respect to a child, the court shall only take into account the best interests of the child in accordance with this section.

Primary consideration

(2) In determining the best interests of a child, the court shall consider all factors related to the circumstances of the child, and, in doing so, shall give primary consideration to the child's physical, emotional and psychological safety, security and well-being.

Factors

- (3) Factors related to the circumstances of a child include,
- (a) the child's needs, given the child's age and stage of development, such as the child's need for stability;
 - (b) the nature and strength of the child's relationship with each parent, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;
 - (c) each parent's willingness to support the development and maintenance of the child's relationship with the other parent;
 - (d) the history of care of the child;
 - (e) the child's views and preferences, giving due weight to the child's age and maturity, unless they cannot be ascertained;
 - (f)) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;
 - (g)) any plans for the child's care;
 - (h) the ability and willingness of each person in respect of whom the order would apply to care for and meet the needs of the child;

- (i) the ability and willingness of each person in respect of whom the order would apply to communicate and co-operate, in particular with one another, on matters affecting the child;
 - (j) any family violence and its impact on, among other things,
- (i) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child, and
- (ii) the appropriateness of making an order that would require persons in respect of whom the order would apply to co-operate on issues affecting the child; and
- (k) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child.

Factors relating to family violence

(4) In considering the impact of any family violence under clause (3) (j), the court shall take into account,

- (a) the nature, seriousness and frequency of the family violence and when it occurred;
- (b) whether there is a pattern of coercive and controlling behaviour in relation to a family member;
- (c) whether the family violence is directed toward the child or whether the child is directly or indirectly exposed to the family violence;
- (d) the physical, emotional and psychological harm or risk of harm to the child;
- (e) any compromise to the safety of the child or other family member;
- (f) whether the family violence causes the child or other family member to fear for their own safety or for that of another person;
- (g) any steps taken by the person engaging in the family violence to prevent further family violence from occurring and improve the person's ability to care for and meet the needs of the child; and
- (h) any other relevant factor.

Past conduct

(5) In determining what is in the best interests of the child, the court shall not take into consideration the past conduct of any person, unless the conduct is relevant to the exercise of the person's decision-making responsibility, parenting time or contact with respect to the child.

Allocation of parenting time

(6) In allocating parenting time, the court shall give effect to the principle that a child should have as much time with each parent as is consistent with the best interests of the child.

Application to related orders

(7) This section applies with respect to interim parenting orders and contact orders, and to variations of parenting orders and contact orders or interim parenting orders and contact orders.

Declining jurisdiction

25 A court having jurisdiction under this Part in relation to decision-making responsibility, parenting time or contact with respect to a child may decline to exercise its jurisdiction if it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

Delay

26 (1) If an application under this Part in relation to decision-making responsibility, parenting time or contact with respect to a child has not been heard within six months after the commencement of the proceedings, the clerk of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application.

Exception

(2) Subsection (1) does not apply to an application under this Part in relation to decision-making responsibility, parenting time or contact with respect to a child if the child is the subject of an application or order under Part V of the *Child, Youth and Family Services Act, 2017*, unless the application under this Part relates to,

- (a) an order in respect of the child that was made under subsection 102 (1) of the *Child, Youth and Family Services Act, 2017*;
- (b) an order referred to in subsection 102 (3) of the *Child, Youth and Family Services Act, 2017* that was made at the same time as an order under subsection 102 (1) of that Act; or
- (c) an access order in respect of the child under section 104 of the *Child, Youth and Family Services Act, 2017* that was made at the same time as an order under subsection 102 (1) of that Act.

Directions

(3) At a hearing of a matter listed by the clerk in accordance with subsection (1), the court may by order fix a date for the hearing of the application and may give such directions in

respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate.

Early date

(4) If the court fixes a date under subsection (3), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application.

Effect of divorce proceedings

27 If an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in relation to decision-making responsibility, parenting time or contact with respect to a child that has not been determined is stayed except by leave of the court.

PARENTING ORDERS AND CONTACT ORDERS

Parenting orders and contact orders

28 (1) The court to which an application is made under section 21,

(a) may by order grant,

- (i) decision-making responsibility with respect to a child to one or more persons, in the case of an application under clause 21 (1) (a) or subsection 21 (2),
- (ii) parenting time with respect to a child to one or more parents of the child, in the case of an application under clause 21 (1) (b), or
- (iii) contact with respect to a child to one or more persons other than a parent of the child, in the case of an application under subsection 21 (3);

(b) may by order determine any aspect of the incidents of the right to decision-making responsibility, parenting time or contact, as the case may be, with respect to a child; and

(c) may make any additional order the court considers necessary and proper in the circumstances, including an order,

- (i) limiting the duration, frequency, manner or location of contact or communication between any of the parties, or between a party and the child,
- (ii) prohibiting a party or other person from engaging in specified conduct in the presence of the child or at any time when the person is responsible for the care of the child,
- (iii) prohibiting a party from changing the child's residence, school or day care facility without the consent of another party or an order of the court,

- (iv) prohibiting a party from removing the child from Ontario without the consent of another party or an order of the court,
- (v) requiring the delivery, to the court or to a person or body specified by the court, of the child's passport, the child's health card within the meaning of the *Health Insurance Act* or any other document relating to the child that the court may specify,
- (vi) requiring a party to give information or to consent to the release of information respecting the child's well-being, including in relation to the child's health and education, to another party or other person specified by the court, or
- (vii) requiring a party to facilitate communication by the child with another party or other person specified by the court in a manner that is appropriate for the child.

Exception

(2) If an application is made under section 21 with respect to a child who is the subject of an order made under section 102 of the *Child, Youth and Family Services Act, 2017*, the court shall treat the application as if it were an application to vary an order made under this section.

Same

(3) If an order for access to a child was made under Part V of the *Child, Youth and Family Services Act, 2017* at the same time as an order for custody of the child was made under section 102 of that Act, the court shall treat an application under section 21 of this Act relating to parenting time or contact with respect to the child as if it were an application to vary an order made under this section.

Allocation of decision-making responsibility

(4) The court may allocate decision-making responsibility with respect to a child, or any aspect of it, to one or more persons.

Allocation of parenting time

(5) The court may allocate parenting time with respect to a child by way of a schedule.

Parenting time, day-to-day decisions

(6) Unless the court orders otherwise, a person to whom the court allocates parenting time with respect to a child has exclusive authority during that time to make day-to-day decisions affecting the child.

Parenting plan

(7) The court shall include in a parenting order or contact order any written parenting plan submitted by the parties that contains the elements relating to decision-making responsibility, parenting time or contact to which the parties agree, subject to any changes the court may specify if it considers it to be in the best interests of the child to do so.

Right to ask for and receive information

(8) Unless a court orders otherwise, a person to whom decision-making responsibility or parenting time has been granted with respect to a child under a parenting order is entitled to ask for and, subject to any applicable laws, receive information about the child's well-being, including in relation to the child's health and education, from,

- (a) any other person to whom decision-making responsibility or parenting time has been granted with respect to the child under a parenting order; and
- (b) any other person who is likely to have such information.

Variation of orders

29 (1) A court shall not make an order under this Part that varies a parenting order or contact order unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child who is the subject of the order.

Relocation

(2) For the purposes of subsection (1), the relocation of a child in accordance with section 39.4 constitutes a material change in circumstances unless the relocation had been prohibited by a court, in which case the relocation does not, in itself, constitute a material change in circumstances.

Corresponding variation of parenting order

(3) If the court varies a contact order, it may also vary the parenting order to take into account the variation of the contact order.

Corresponding variation of contact order

(4) If the court varies a parenting order, it may also vary any contact order to take into account the variation of the parenting order.

7 The heading before section 30 of the Act is repealed and the following substituted:

**DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT —
ASSISTANCE TO COURT**

8 (1) Subsection 30 (1) of the Act is amended by striking out “in respect of custody of or access to a child” and substituting “for a parenting order or contact order with respect to a child”.

(2) The English version of subsection 30 (2) of the Act is amended by striking out “in respect of custody of or access to the child”.

9 Subsection 31 (1) of the Act is amended by striking out “for custody of or access to a child” and substituting “for a parenting order or contact order”.

10 The Act is amended by adding the following sections:

DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT — DUTIES

Parties

Best interests of the child

33.1 (1) A person to whom decision-making responsibility, parenting time or contact has been granted with respect to a child under a parenting order or contact order shall exercise the decision-making responsibility, parenting time or contact in a manner that is consistent with the best interests of the child within the meaning of section 24.

Protection of children from conflict

(2) A party to a proceeding under this Part shall, to the best of the party’s ability, protect any child from conflict arising from the proceeding.

Alternative dispute resolution process

(3) To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Part through an alternative dispute resolution process, such as negotiation, mediation or collaborative law.

Complete, accurate and up-to-date information

(4) A party to a proceeding under this Part, or a person who is subject to an order made under this Part, shall provide complete, accurate and up-to-date information if required to do so under this Part.

Duty to comply with orders

(5) For greater certainty, a person who is subject to an order made under this Part shall comply with the order until it is no longer in effect.

Certification

(6) Every document that commences a proceeding under this Part, or that responds to such a document, that is filed with a court by a party to a proceeding shall contain a statement by the party certifying that the party is aware of the duties to which the party is subject under subsections (1) to (5).

Legal adviser

Definitions

33.2 (1) In this section,

“family justice services” means public or private services intended to help persons deal with issues arising from separation or divorce; (“services de justice familiale”)

“legal adviser” means a person authorized under the *Law Society Act* to practise law or provide legal services to another person in a proceeding under this Part. (“conseiller juridique”)

Duty to discuss and inform

(2) It is the duty of every legal adviser who undertakes to act on a person’s behalf in any proceeding under this Part,

(a) to encourage the person to attempt to resolve the matters that may be the subject of an order under this Part through an alternative dispute resolution process, as provided for under subsection 33.1 (3), unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so;

(b) to inform the person of the family justice services known to the legal adviser that might assist the person,

(i) in resolving the matters that may be the subject of an order under this Part, and

(ii) in complying with any order or decision made under this Part; and

(c) to inform the person of the parties’ duties under this Part.

Certification

(3) Every document that commences a proceeding under this Part, or that responds to such a document, that is filed with a court by a legal adviser shall contain a statement by the legal adviser certifying that the legal adviser has complied with subsection (2).

Court

33.3 (1) The purpose of this section is to facilitate,

- (a) the identification of orders, undertakings, recognizances, agreements or measures that may conflict with a parenting order or contact order; and
- (b) the co-ordination of proceedings.

Information regarding other orders or proceedings

(2) The court has a duty to consider if any of the following are pending or in effect in relation to any party to a proceeding under this Part, unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so:

1. A restraining order under section 35, the *Family Law Act* or the *Child, Youth and Family Services Act, 2017*, or any other civil order made to protect a person's safety, including an order that prohibits a person from,
 - i. being in physical proximity to a specified person or following a specified person from place to place,
 - ii. contacting or communicating with a specified person, either directly or indirectly,
 - iii. attending at or being within a certain distance of a specified place or location,
 - iv. engaging in harassing or threatening conduct directed at a specified person,
 - v. occupying a family home or a residence, or
 - vi. engaging in family violence.
2. A child protection order, proceeding, agreement or measure.
3. An order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature.

Inquiries

(3) In order to carry out its duty under subsection (2), the court may make inquiries of the parties or review information that is readily available and that has been obtained through a lawful search.

11 The heading before section 34 and section 34 of the Act are repealed and the following substituted:

**DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT —
ENFORCEMENT**

Supervision of parenting orders and contact orders

34 (1) A court may give such directions as it considers appropriate for the supervision, by a person, a children's aid society or other body, of decision-making responsibility, parenting time or contact with respect to a child under a parenting order or contact order.

Consent to act

(2) A court shall not direct a person, a children's aid society or other body to supervise the exercise of decision-making responsibility, parenting time or contact under subsection (1) unless the person, society or body has consented to act as supervisor.

12 (1) Subsection 36 (1) of the Act is amended by,

(a)) striking out "an order has been made for custody of or access to a child" and substituting "a parenting order or contact order has been made with respect to a child"; and

(b) striking out "custody or access" and substituting "decision-making responsibility, parenting time or contact".

(2) Clauses 36 (2) (a) and (c) of the Act are repealed and the following substituted:

(a) that any person is unlawfully withholding a child from a person entitled to decision-making responsibility, parenting time or contact with respect to the child;

.....

(c) that a person who is entitled to parenting time or contact with respect to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

(3) Subsection 36 (8) of the Act is amended by striking out "an application for custody or access" and substituting "an application for a parenting order or contact order".

13 Subsection 37 (2) of the Act is amended by striking out "access to a child" and substituting "parenting time or contact with respect to a child".

14 (1) Clauses 39 (1) (a) and (b) of the Act are repealed and the following substituted:

(a) for the purpose of bringing an application in respect of decision-making responsibility, parenting time or contact under this Part; or

(b) for the purpose of enforcing a parenting order or contact order,

(2) Subsection 39 (2) of the Act is repealed and the following substituted:

Exception

(2) A court shall not make an order on an application under subsection (1) if it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has decision-making responsibility with respect to a child, rather than to learn or confirm the whereabouts of the proposed respondent or for the enforcement of a parenting order or contact order.

15 The Act is amended by adding the following sections:

DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT — RESIDENCE AND RELOCATION

Change in residence, person with decision-making responsibility or parenting time

39.1 (1) A person who has decision-making responsibility or parenting time with respect to a child and who intends to make a change in residence, or in the child's residence, shall notify any other person who has decision-making responsibility, parenting time or contact under a contact order with respect to the child of the intention.

Notice requirements

(2) The notice shall be in writing and shall set out,

- (a) the date on which the change is expected to occur; and
- (b) the address of the new residence and contact information of the person or child, as the case may be.

Exception

(3) On application, the court may in any circumstance provide that subsections (1) and (2) do not apply, or apply with any changes the court specifies, if the court is of the opinion that it is appropriate to do so, including if there is a risk of family violence.

Same

(4) An application under subsection (3) may be made without notice to any other party.

Non-application

(5) This section does not apply with respect to relocations.

Change in residence, person with contact

39.2 (1) A person who has contact under a contact order with respect to a child and who intends to make a change in residence shall notify any person who has decision-making responsibility or parenting time with respect to the child of the intention.

Notice requirements

(2) The notice shall be in writing and shall set out,

- (a) the date on which the change is expected to occur; and
- (b) the address of the new residence and contact information of the person.

Significant impacts, additional requirements

(3) If the change in residence is likely to have a significant impact on the child's relationship with the person, the following additional requirements apply with respect to the notice:

- 1. The notice shall be given at least 60 days before the date on which the change is expected to occur.
- 2. The notice shall be in the form prescribed by the regulations or, if no form is prescribed, shall be in writing and shall set out,

- i. a proposal as to how contact could be exercised, and
- ii. any other information that may be prescribed by the regulations.

Exception

(4) On application, the court may in any circumstance provide that subsections (1), (2) and (3) or anything prescribed by the regulations for the purposes of paragraph 2 of subsection (3) do not apply, or apply with any changes the court specifies, if the court is of the opinion that it is appropriate to do so, including if there is a risk of family violence.

Same

(5) An application under subsection (4) may be made without notice to any other party.

Regulations

(6) The Attorney General may make regulations prescribing anything in this section that may be prescribed by the regulations.

Relocation

39.3 (1) A person who has decision-making responsibility or parenting time with respect to a child and who intends a relocation shall, at least 60 days before the expected date of the proposed relocation, notify any other person who has decision-making responsibility, parenting time or contact under a contact order with respect to the child of the intention.

Notice requirements

(2) The notice shall be in the form prescribed by the regulations or, if no form is prescribed, shall be in writing and shall set out,

- (a) the expected date of the proposed relocation;
- (b) the address of the new residence and contact information of the person or child, as the case may be;
- (c) a proposal as to how decision-making responsibility, parenting time or contact, as the case may be, could be exercised; and
- (d) any other information that may be prescribed by the regulations.

Exception

(3) On application, the court may in any circumstance provide that subsections (1) and (2) or anything prescribed by the regulations for the purposes of subsection (2) do not apply, or apply with any changes the court specifies, if the court is of the opinion that it is appropriate to do so, including if there is a risk of family violence.

Same

(4) An application under subsection (3) may be made without notice to any other party.

Objection

(5) A person with decision-making responsibility or parenting time who receives notice of the proposed relocation under subsection (1) may, no later than 30 days after receiving the notice, object to the relocation by,

- (a) notifying the person who gave the notice of proposed relocation of the objection to the relocation; or
- (b) making an application under section 21.

Notice requirements

(6) A notice under clause (5) (a) shall be in writing and shall set out,

- (a) a statement that the person objects to the relocation;

- (b) the reasons for the objection;
- (c) the person's views on the proposal referred to in clause (2) (c); and
- (d) any other information that may be prescribed by the regulations.

Regulations

(7) The Attorney General may make regulations,

- (a) prescribing anything in this section that may be prescribed by the regulations;
- (b) requiring that a notice under this section be given in a manner specified by the regulations.

Authorization of relocation

39.4 (1) In this section,

“family arbitration award” has the same meaning as in the *Arbitration Act, 1991*.

Same

(2) A person who has given notice of a proposed relocation in accordance with section 39.3 and who intends to relocate a child may do so as of the date referred to in the notice if,

- (a) the relocation is authorized by a court; or
- (b) no objection to the relocation is made in accordance with subsection 39.3 (5) and there is no order prohibiting the relocation.

Best interests of the child

(3) In determining whether to authorize the relocation of a child, the court shall take into account the best interests of the child in accordance with section 24, as well as,

- (a) the reasons for the relocation;
- (b) the impact of the relocation on the child;
- (c) the amount of time spent with the child by each person who has parenting time or is an applicant for a parenting order with respect to the child, and the level of involvement in the child's life of each of those persons;
- (d) whether the person who intends to relocate the child has complied with any applicable notice requirement under section 39.3 and any applicable Act, regulation, order, family arbitration award and agreement;
- (e) the existence of an order, family arbitration award or agreement that specifies the geographic area in which the child is to reside;

- (f) the reasonableness of the proposal of the person who intends to relocate the child to vary the exercise of decision-making responsibility, parenting time or contact, taking into consideration, among other things, the location of the new residence and the travel expenses; and
- (g) whether each person who has decision-making responsibility or parenting time or is an applicant for a parenting order with respect to the child has complied with their obligations under any applicable Act, regulation, order, family arbitration award or agreement, and the likelihood of future compliance.

Factor not to be considered

(4) In determining whether to authorize a relocation of the child, the court shall not consider whether, if the child's relocation were to be prohibited, the person who intends to relocate the child would relocate without the child or not relocate.

Burden of proof

(5) If the parties to the proceeding substantially comply with an order, family arbitration award or agreement that provides that a child spend substantially equal time in the care of each party, the party who intends to relocate the child has the burden of proving that the relocation would be in the best interests of the child.

Same

(6) If the parties to the proceeding substantially comply with an order, family arbitration award or agreement that provides that a child spend the vast majority of time in the care of the party who intends to relocate the child, the party opposing the relocation has the burden of proving that the relocation would not be in the best interests of the child.

Same

(7) In any other case, the parties to the proceeding have the burden of proving whether the relocation is in the best interests of the child.

Burden of proof, exception

(8) If an order referred to in subsection (5) or (6) is an interim order, the court may determine that the subsection does not apply.

Costs of relocation

(9) If a court authorizes the relocation of a child, it may provide for the apportionment of costs relating to the exercise of parenting time by a person who is not relocating between that person and the person who is relocating the child.

16 The heading before section 40 of the Act is repealed and the following substituted:

**DECISION-MAKING RESPONSIBILITY, PARENTING TIME AND CONTACT —
EXTRA-PROVINCIAL MATTERS**

17 Paragraph 1 of section 40 of the Act is amended by striking out “interim order in respect of the custody or access” and substituting “interim parenting order or contact order”.

18 (1) Subsection 41 (1) of the Act is amended by striking out “an order for the custody of or access to a child” in the portion before clause (a) and substituting “an order granting decision-making responsibility, parenting time or contact with respect to a child”.

(2) Subsection 41 (3) of the Act is amended by striking out “for the custody of or access to a child” and substituting “granting decision-making responsibility, parenting time or contact with respect to a child”.

19 Subsection 42 (1) of the Act is amended by striking out “in respect of custody of or access to a child” in the portion before clause (a) and substituting “in relation to decision-making responsibility, parenting time or contact with respect to a child”.

20 Section 43 of the Act is repealed and the following substituted:

Superseding order, serious harm

43 Upon application, a court may by order supersede an extra-provincial order in relation to decision-making responsibility, parenting time or contact with respect to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if,

- (a) the child remains with a person legally entitled to decision-making responsibility with respect to the child;
- (b) the child is returned to a person legally entitled to decision-making responsibility with respect to the child; or
- (c) the child is removed from Ontario.

21 The heading before section 61 of the Act is repealed and the following substituted:

TESTAMENTARY DECISION-MAKING RESPONSIBILITY AND GUARDIANSHIP

22 (1) Subsection 61 (1) of the Act is repealed and the following substituted:

Appointments by will

Disposition of decision-making responsibility

(1) A person entitled to decision-making responsibility with respect to a child may appoint by will one or more persons to have decision-making responsibility with respect to the child after the death of the appointor.

(2) Clauses 61 (4) (a) and (b) of the Act are amended by striking out “entitled to custody of the child” wherever it appears and substituting in each case “entitled to decision-making responsibility with respect to the child”.

(3) Subsection 61 (5) of the Act is amended by striking out “to have custody of” and substituting “to have decision-making responsibility with respect to a child”.

(4) Subsection 61 (7) of the Act is amended by,

(a)) striking out “for custody of a child” and substituting “for decision-making responsibility with respect to a child”; and

(b) striking out “for custody of the child” and substituting “for decision-making responsibility with respect to the child”.

23 Subsection 62 (5) of the Act is repealed and the following substituted:

If identity of other biological parent not known

(5) Where, in respect of a child conceived through sexual intercourse but not through insemination by a sperm donor, there is no presumption of parentage and the identity of the person whose sperm resulted in the conception of the child is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents on the person whose sperm resulted in the conception of the child in the proceeding.

24 Subsection 75 (1) of the Act is amended by striking out “custody of the child” and substituting “decision-making responsibility with respect to the child”.

25 The Act is amended by adding the following section:

Transition, *Moving Ontario Family Law Forward Act, 2020*

76 (1) In this section,

“transition date” is the day on which section 25 of Schedule 1 to the *Moving Ontario Family Law Forward Act, 2020* comes into force.

Custody deemed to be decision-making responsibility

(2) Unless the court orders otherwise, a person who, immediately before the transition date, had custody of a child in accordance with an order under this Part or a separation agreement is deemed, as of the transition date, to have decision-making responsibility with respect to the child under the order or separation agreement, and references in the order or separation agreement to custody shall be read as references to decision-making responsibility.

Access deemed to be parenting time, contact

(3) Unless the court orders otherwise, a person who, immediately before the transition date, had access to a child in accordance with an order under this Part or a separation agreement is deemed, as of the transition date, to have parenting time with respect to the child if the person is a parent of the child, or contact with respect to the child if the person is not a parent of the child, and references in the order or separation agreement to access shall be read as references to parenting time or contact, as the case may be.

Extent, terms, etc. of decision-making responsibility and parenting time

(4) For the purposes of subsections (2) and (3), a person's decision-making responsibility, parenting time or contact with respect to a child is as described in the order or separation agreement respecting custody, access or both, as it applied immediately before the transition date.

Non-application of ss. 39.1, 39.3

(5) A person who is deemed under subsection (2) or (3) to have decision-making responsibility or parenting time with respect to a child is not required to give notice under section 39.1 or 39.3 if a court order made before the transition date specifies that no notice is required in respect of a change in residence by the person or by the child.

Child, Youth and Family Services Act, 2017

26 (1) Clause 74 (2) (k) of the *Child, Youth and Family Services Act, 2017* is amended by striking out "to exercise custodial rights" and substituting "to exercise the rights of custody".

(2) Subsection 102 (2) of the Act is amended by striking out "is deemed to be made under section 28" in the portion before clause (a) and substituting "is deemed to be a parenting order or contact order, as the case may be, made under section 28".

(3) Clause 102 (6) (a) of the Act is amended by striking out "custody of the child" and substituting "decision-making responsibility with respect to the child".

(4) Section 103 of the Act is repealed and the following substituted:

Proceedings under *Children’s Law Reform Act*

103 If, under this Part, a proceeding is commenced or an order for the care, custody or supervision of a child is made, any proceeding under the *Children’s Law Reform Act* respecting decision-making responsibility, parenting time or contact with respect to the same child is stayed, except by leave of the court in the proceeding under that Act.

(5) Subsection 116 (6) of the Act is repealed and the following substituted:

Proceedings under *Children’s Law Reform Act*

(6) If an order is made under this section or a proceeding is commenced under this Part, any proceeding under the *Children’s Law Reform Act* respecting decision-making responsibility, parenting time or contact with respect to the same child is stayed, except by leave of the court in the proceeding under that Act.

(6) Paragraph 11 of subsection 125 (1) of the Act is amended by striking out “to exercise custodial rights” and substituting “to exercise the rights of custody”.

Courts of Justice Act

27 (1) Subsection 21.11 (2) of the *Courts of Justice Act* is amended by striking out “ordinarily” and substituting “habitually”.

(2) Subsection 112 (1) of the Act is repealed and the following substituted:

Investigation and report of Children’s Lawyer

(1) In a proceeding under the *Divorce Act* (Canada) or the *Children’s Law Reform Act* in which a question concerning decision-making responsibility, parenting time or contact with respect to a child is before the court, the Children’s Lawyer may cause an investigation to be made and may report and make recommendations to the court on all matters concerning decision-making responsibility, parenting time or contact with respect to the child and the child’s support and education.

Family Law Act

28 (1) Section 37 of the *Family Law Act* is amended by adding the following subsection:

No variation

(4) An order may not be varied on the basis of the enactment or coming into force of any provision of Schedule 1 to the *Moving Ontario Family Law Forward Act, 2020*.

(2) Paragraph 1 of subsection 39 (3) of the Act is amended by striking out “has custody of the child” and substituting “has decision-making responsibility, within the meaning of that Act, with respect to the child”.

(3) Section 47 of the Act is repealed and the following substituted:

Application under *Children’s Law Reform Act*

47 The court may direct that an application for support stand over until an application under the *Children’s Law Reform Act* for a parenting order has been determined.

(4) The Act is amended by adding the following sections:

Duties of parties

Alternative dispute resolution process

47.2 (1) To the extent that it is appropriate to do so, the parties to a proceeding shall try to resolve the matters that may be the subject of an order under this Part through an alternative dispute resolution process, such as negotiation, mediation or collaborative law.

Complete, accurate and up-to-date information

(2) A party to a proceeding under this Part, or a person who is subject to an order made under this Part, shall provide complete, accurate and up-to-date information if required to do so under this Part.

Duty to comply with orders

(3) For greater certainty, a person who is subject to an order made under this Part shall comply with the order until it is no longer in effect.

Certification

(4) Every document that commences a proceeding under this Part, or that responds to such a document, that is filed with a court by a party to a proceeding shall contain a statement by the party certifying that the party is aware of the duties to which the party is subject under subsections (1) to (3).

Duties of legal advisers

Definitions

47.3 (1) In this section,

“family justice services” means public or private services intended to help persons deal with issues arising from separation or divorce; (“services de justice familiale”)

“legal adviser” means a person authorized under the *Law Society Act* to practise law or provide legal services to another person in a proceeding under this Part. (“conseiller juridique”)

Duty to discuss and inform

(2) It is the duty of every legal adviser who undertakes to act on a person’s behalf in any proceeding under this Part,

- (a) to encourage the person to attempt to resolve the matters that may be the subject of an order under this Part through an alternative dispute resolution process, as provided for under subsection 47.2 (1), unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so;
- (b) to inform the person of the family justice services known to the legal adviser that might assist the person,

(i) in resolving the matters that may be the subject of an order under this Part, and

(ii) in complying with any order or decision made under this Part; and

- (c) to inform the person of the parties’ duties under this Part.

Certification

(3) Every document that commences a proceeding under this Part, or that responds to such a document, that is filed with a court by a legal adviser shall contain a statement by the legal adviser certifying that the legal adviser has complied with subsection (2).

Duties of court

47.4 (1) The purpose of this section is to facilitate,

- (a) the identification of orders, undertakings, recognizances, agreements or measures that may conflict with an order under this Part; and
- (b) the co-ordination of proceedings.

Information regarding other orders or proceedings

(2) The court has a duty to consider if any of the following are pending or in effect in relation to any party to a proceeding under this Part, unless the circumstances of the case are of such a nature that it would clearly not be appropriate to do so:

1. A restraining order under section 46, the *Children’s Law Reform Act* or the *Child, Youth and Family Services Act, 2017*, or any other civil order made to protect a person’s safety, including an order that prohibits a person from,

- i. being in physical proximity to a specified person or following a specified person from place to place,
- ii. contacting or communicating with a specified person, either directly or indirectly,
- iii. attending at or being within a certain distance of a specified place or location,
- iv. engaging in harassing or threatening conduct directed at a specified person,
- v. occupying a family home or a residence, or
- vi. engaging in family violence.

2. A child protection order, proceeding, agreement or measure.

3. An order, proceeding, undertaking or recognizance in relation to any matter of a criminal nature.

Inquiries

(3) In order to carry out its duty under subsection (2), the court may make inquiries of the parties or review information that is readily available and that has been obtained through a lawful search.

(5) Section 51 of the Act is amended by adding the following definitions:

“decision-making responsibility” has the same meaning as in Part III of the *Children’s Law Reform Act*; (“responsabilité décisionnelle”)

“parenting time” has the same meaning as in Part III of the *Children’s Law Reform Act*; (“temps parental”)

(6) Clause 52 (1) (c) of the Act is amended by striking out “custody of or access to their children” and substituting “decision-making responsibility or parenting time with respect to their children”.

(7) Clause 53 (1) (c) of the Act amended by striking out “custody of or access to their children” and substituting “decision-making responsibility or parenting time with respect to their children”.

(8) Clause 54 (d) of the Act is repealed and the following substituted:

(d) the right to decision-making responsibility or parenting time with respect to their children; and

(9) Subsection 56 (1) of the Act is amended by striking out “custody of or access to a child” and substituting “decision-making responsibility or parenting time with respect to a child”.

(10) Subsection 58 (c) of the Act is amended by striking out “custody of or access to children” and substituting “decision-making responsibility or parenting time with respect to children”.

Family Responsibility and Support Arrears Enforcement Act, 1996

29 (1) The definition of “provisional order” in subsection 1 (1) of the *Family Responsibility and Support Arrears Enforcement Act, 1996* is amended by striking out “subsection 18 (2) of the *Divorce Act (Canada)*”.

(2) Clause 35 (21) (b) of the Act is amended by striking out “sections 18 and 19 of the *Divorce Act (Canada)*” and substituting “section 18.1, 18.2 or 19 of the *Divorce Act (Canada)*”.

Police Record Checks Reform Act, 2015

30 Paragraph 1 of subsection 2 (2) of the *Police Record Checks Reform Act, 2015* is amended by striking out “an application for custody of a child” and substituting “an application for a parenting order respecting decision-making responsibility with respect to a child”.

Commencement

31 (1) Subject to subsection (2), this Schedule comes into force on the day the *Moving Ontario Family Law Forward Act, 2020* receives Royal Assent.

(2) Sections 1 to 22 and 24 to 30 come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 2
COURTS OF JUSTICE ACT**

1 (1) Clause 6 (1) (b) of the *Courts of Justice Act* is repealed and the following substituted:

(b) a final order of a judge of the Superior Court of Justice, except,

(i) an order referred to in clause 19 (1) (a) or (a.1), or

(ii) an order from which an appeal lies to the Divisional Court under another Act;

(2) Section 6 of the Act is amended by adding the following subsection:

Leave not required for second appeal

(1.0.1) Despite clause (1) (a), leave of the Court of Appeal is not required in the case of an order of the Divisional Court on an appeal under Part V or VIII of the *Child, Youth and Family Services Act, 2017*.

(3) Section 6 of the Act is amended by adding the following subsections:

Leave required for second appeal

(1.1) Despite clause (1) (b), a final order of a judge of the Superior Court of Justice made on a first appeal from an order described in subsection (1.2) may be appealed to the Court of Appeal only with leave from the Court of Appeal, as provided in the rules of court.

Same

(1.2) The orders mentioned in subsection (1.1) are orders of the Ontario Court of Justice under any of the following statutes or statutory provisions:

1. The *Change of Name Act*.
2. The *Children's Law Reform Act*, except sections 59 and 60.
3. Section 6 of the *Marriage Act*.

(4) Section 6 of the Act is amended by adding the following subsection:

Transition

(4) This section, as it read immediately before the day subsection 1 (1) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

2 (1) Subsection 19 (1) of the Act is amended by adding the following clause:

- (a.1) a final order of a judge of the Family Court made only under a provision of an Act or regulation of Ontario;

(2) Section 19 of the Act is amended by adding the following subsection:

Transition

(5) This section, as it read immediately before the day subsection 2 (1) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

3 Section 21.9.1 of the Act is repealed.

Change of Name Act

4 (1) The definition of “court” in section 1 of the *Change of Name Act* is repealed and the following substituted:

“court” means the Ontario Court of Justice or the Family Court; (“tribunal”)

(2) Section 11 of the Act is repealed and the following substituted:

Appeals

Appeal from order dispensing with consent

11 (1) An appeal from an order under subsection 4 (4) or 5 (4) (dispensing with consent) may be made by the applicant or the person whose consent is dispensed with to,

- (a) the Superior Court of Justice, if the order was made in the Ontario Court of Justice;
- (b) the Divisional Court, if the order was made in the Family Court; or
- (c) the proper appellate court as determined under the *Courts of Justice Act*, if the order was made in the Superior Court of Justice and not in the Family Court.

Appeal from review of Registrar General’s refusal

(2) An appeal from an order under subsection 7 (5) (review of Registrar General’s refusal of application) may be made by the applicant or the Registrar General to,

- (a) the Superior Court of Justice, if the order was made in the Ontario Court of Justice;
- (b) the Divisional Court, if the order was made in the Family Court; or
- (c) the proper appellate court as determined under the *Courts of Justice Act*, if the order was made in the Superior Court of Justice and not in the Family Court.

Appeal from revocation of change of name

(3) An appeal from an order under subsection 10 (4) (revocation of change of name) may be made by the applicant, the Registrar General or the person to whom the change of name order relates to,

- (a) the Superior Court of Justice, if the order was made in the Ontario Court of Justice;
or
- (b) the Divisional Court, if the order was made in the Family Court.

Transition

(4) This section, as it read immediately before the day subsection 4 (2) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

Child, Youth and Family Services Act, 2017

5 (1) Subsection 121 (1) of the *Child, Youth and Family Services Act, 2017* is amended by striking out “to the Superior Court of Justice” in the portion before clause (a).

(2) Section 121 of the Act is amended by adding the following subsection:

Court

(2.1) The appeal shall be made to,

- (a) the Superior Court of Justice, if the order was made at the Ontario Court of Justice;
or
- (b) the Divisional Court, if the order was made at the Family Court of the Superior Court of Justice.

(3) Subsection 121 (4) of the Act is amended by striking out “The Superior Court of Justice may” at the beginning and substituting “The Superior Court of Justice or the Divisional Court, as applicable, may”.

(4) Section 121 of the Act is amended by adding the following subsection:

Transition

(9) This section, as it read immediately before the day subsection 5 (2) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

(5) Subsection 208 (1) of the Act is repealed and the following substituted:

Appeal of order to vary or terminate openness order

- (1) An appeal from a court's order under section 198 or 207 may be made by,
- (a) any person who was entitled to apply for the order to vary or terminate the openness order; or
 - (b) any person who was entitled to notice of the application to vary or terminate the openness order.

Same

- (1.1) The appeal shall be made to,
- (a) the Superior Court of Justice, if the order was made at the Ontario Court of Justice;
or
 - (b) the Divisional Court, if the order was made at the Family Court of the Superior Court of Justice.

(6) Subsection 208 (2) of the Act is amended by striking out “the Superior Court of Justice may” and substituting “the Superior Court of Justice or the Divisional Court, as applicable, may”.

(7) Section 208 of the Act is amended by adding the following subsection:

Transition

- (6) This section, as it read immediately before the day subsection 5 (5) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,
- (a) any case in which a notice of appeal was filed before that day; and
 - (b) any further appeals or proceedings arising from a case described in clause (a).

(8) Subsections 215 (1), (2) and (3) of the Act are amended by striking out “to the Superior Court of Justice” wherever it appears.

(9) Section 215 of the Act is amended by adding the following subsection:

Court

- (3.1) An appeal under this section shall be made to,
- (a) the Superior Court of Justice, if the order was made at the Ontario Court of Justice;
or

- (b) the Divisional Court, if the order was made at the Family Court of the Superior Court of Justice.

(10) Section 215 of the Act is amended by adding the following subsection:

Transition

(7) This section, as it read immediately before the day subsection 5 (9) of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

Children’s Law Reform Act

6 Section 73 of the *Children’s Law Reform Act* is repealed and the following substituted:

Appeal

73 (1) Subject to subsection (2),

- (a) an appeal from an order of the Ontario Court of Justice under this Part lies to the Superior Court of Justice;
- (b) an appeal from an order of the Family Court under this Part lies to the Divisional Court; and
- (c) an appeal from an order of the Superior Court of Justice under this Part, other than an order of the Family Court, lies to the proper appellate court as determined under the *Courts of Justice Act*.

Matters that must be appealed to the Court of Appeal

(2) An appeal from an order made in accordance with section 22, 41, 42 or 43, or made in accordance with the Schedule to section 46, lies to the Court of Appeal.

Transition

(3) This section, as it read immediately before the day section 6 of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

Family Law Act

7 Section 48 of the *Family Law Act* is repealed and the following substituted:

Appeal

48 (1) An appeal from an order of the Ontario Court of Justice under this Part lies to the Superior Court of Justice.

Same

(2) An appeal from an order of the Family Court of the Superior Court of Justice under this Part lies to the Divisional Court.

Same

(3) An appeal from an order of the Superior Court of Justice under this Part, other than an order of the Family Court of the Superior Court of Justice, lies to the proper appellate court as determined under the *Courts of Justice Act*.

Transition

(4) This section, as it read immediately before the day section 7 of Schedule 2 to the *Moving Ontario Family Law Forward Act, 2020* came into force, continues to apply to,

- (a) any case in which a notice of appeal was filed before that day; and
- (b) any further appeals or proceedings arising from a case described in clause (a).

Commencement

8 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 3
FAMILY LAW ACT**

1 The definition of “paternity agreement” in subsection 1 (1) of the *Family Law Act* is repealed.

2 The English version of subsection 6 (15) of the Act is amended by striking out “death” in the portion before clause (a) and substituting “estate”.

3 Section 39 of the Act is amended by adding the following subsection:

Certified copies

(7.1) The Minister of Finance shall provide a certified copy of a notice of calculation given under subsection (7) to a parent or to the designated authority in Ontario under the *Interjurisdictional Support Orders Act, 2002* at the request of the parent or authority.

4 Section 39.1 of the Act is amended by adding the following subsection:

Certified copies

(8.1) The Minister of Finance shall provide a certified copy of a notice of recalculation given under subsection (7) to a party or to the designated authority in Ontario under the *Interjurisdictional Support Orders Act, 2002* at the request of the party or authority.

Commencement

5 (1) Subject to subsection (2), this Schedule comes into force on the day the *Moving Ontario Family Law Forward Act, 2020* receives Royal Assent.

(2) Sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor.