

Summary of the *Alberta Rules of Court (Divorce Proceedings) Amendment Regulation*

Included in the *Alberta Rules of Court (Divorce Proceedings) Amendment Regulation* (AR 23/2021) are the following provisions, which have effect on March 1, 2021 – the coming into force of section 12 of Bill C-78, *An Act to Amend the Divorce Act* (etc.):

- **Rule 6.10(2)(b)** [*Electronic hearing*] is amended to provide that an electronic hearing may be held on the court's own initiative, without the requirement for a party to make a formal application.
- **Rule 12.26** [*Application respecting order made by court outside Alberta under Divorce Act*] is amended:
 - to provide the process for applications under section 22.1 of the *Divorce Act* to recognize a decision of a competent authority outside Canada which varies, rescinds or suspends a parenting order or contact order made under the Act, and
 - to remove the requirement to commence an application to vary, rescind or suspend an order for corollary relief made by a court outside Alberta under the *Divorce Act* by way of originating application.
- **Rule 12.44** [*Application within course of proceeding*] and **rule 12.45** [*Application after order or judgment under Divorce Act*] are amended to add the process for a person other than a spouse to obtain or vary a parenting order or a contact order (or for permission to apply for either order) in respect of a child of the marriage.
- **Rule 12.451** [*Application to vary, suspend or rescind a support order under the Divorce Act (Canada) where one former spouse resides in another province*] is added to provide the process for an application under s. 17(1)(a) of the *Divorce Act* to vary, suspend or rescind a support order when the respondent habitually resides in a province outside of Alberta. This process will permit the respondent to respond to the application in Alberta, or else request that the application be converted to an interjurisdictional support application under s. 18.1 of the Act to be heard in the province where the respondent resides.
- **Rule 12.46** [*Provisional order to vary a support order under Divorce Act*] is replaced with a new provision to address outgoing interjurisdictional applications to obtain or vary a support order under the *Divorce Act* when the respondent resides in a province outside of Alberta.
- **Rule 12.47** [*Confirmation hearing*] is replaced with a new provision to address incoming interjurisdictional applications to obtain or vary support orders under the *Divorce Act* when the applicant resides in a province/territory outside of Alberta, or in a 'designated jurisdiction' – a jurisdiction outside Canada designated under Alberta's *Interjurisdictional Support Orders Act* as a 'reciprocating jurisdiction'.
- A number of forms in Schedule A, Division 2 (Family Law Forms) are amended:
 - Revising the terminology used in the forms, to correspond with the changes being made to the *Divorce Act*. For example, parenting time, decision-making responsibility or contact (rather than custody or access), habitual residence (rather than ordinary residence).
 - Adding a paragraph to the various forms of divorce pleadings and the Family Application asking the filing party to provide details of any civil protection, child protection, or criminal proceedings pending or in effect which involve the parties.

- Adding a statement to the various forms of divorce pleadings and the Family Application by which the filing party certifies that they are aware of their duties under section 7.1 to 7.5 of the Act, where there are children of the marriage.
- Repealing **Form FL-19** [*Provisional Order Information Form*], and replacing it with a new Form FL-19 which will be a Family Application under section 17(1)(a) of the Act and new rule 12.451 to vary, suspend or rescind a support order under the Act where the respondent lives in another Canadian province/territory.
- Adding a new **Form FL-19.1** [*Request to Convert – section 18.2 of the Divorce Act (Canada)*]. This form may be filed under section 18.2 of the Act by a Respondent who habitually resides in a different province/territory of Canada wishes to request that an application under section 17(1)(a) of the Act and new rule 12.451 to vary, suspend or rescind a support order under the Act be converted to an interjurisdictional proceeding.
- Repealing **Form FL-20** [*Notice of Confirmation Hearing*], and replacing it with a new Form FL-20 [*Notice of Interjurisdictional Support Hearing*] for the hearing of an interjurisdictional support application in Alberta under section 18.1 or section 19 of the Act, where the respondent resides in Alberta.
- Amending paragraph 16 of **Form FL-23** [*Affidavit of Applicant for Divorce*] and paragraph 13 of **Form FL-24** [*Affidavit of Applicants for Divorce (Joint)*] to add an acknowledgement that the applicant(s) understand(s) there are requirements under s.16(8) and 16(9) of the Act requiring those with parenting time and decision-making authority to notify each other, in writing, regarding proposed changes in residence or relocations, and to identify the method the parties will use to provide written notice to each other in the event of a proposed change in residence or relocation.
- Amending **Form FL-27** [*Corollary Relief Order*] to add mandatory clauses to alert the parties to their responsibilities under sections 16.8 (change of residence by a person with a parenting order), 16.9 (relocation by a person with a parenting order), and 16.96 (change of residence or relocation by a person with a contact order) of the Act.
- Adding a new **Form FL-31.1** [*Conversion Order – Section 18.2 (or section 18.3) of the Divorce Act*], as referred to in rule 12.53(1)(h) (as amended).
- **Form AP-1** [*Civil Notice of Appeal*] is amended at paragraph 8 to include reference to guardianship, parenting time, decision-making responsibility, and contact in respect of a child.