

ALBERTA FAMILY LAW PRACTICE MANUAL

PART I – PRACTICE

TABLE OF CONTENTS

CHAPTER 1 – INTRODUCTION

1	Family law: a human experience	1-2
2	The dual role of family lawyers	1-2
3	Legislative jurisdiction	1-2
4	Inferior and superior courts	1-3
5	The dynamic nature of family law	1-3
6	The diversity of family law: creating a workable practice.....	1-4
7	Family law from the Bar and the Bench	1-7
7.1	A view from the Bar	1-7
7.2	A view from the Bench	1-8

CHAPTER 2 – PROFESSIONAL OBLIGATIONS

1	The Law Society of Alberta	2-2
2	The Code of Conduct	2-2
2.1	Competence	2-3
2.2	Quality of service	2-3
2.3	Confidentiality.....	2-3
2.4	Communications	2-4
2.5	Conflicts of interest.....	2-5
2.6	Withdrawal from representation	2-6
2.7	Independent legal representation.....	2-6
2.8	Undertakings and trust conditions.....	2-7
3	Access to justice	2-8
3.1	Alternative dispute resolution	2-8
3.2	Self-represented parties	2-9
3.3	Limited-scope retainers	2-11
3.4	Marginalized persons.....	2-14
3.5	Family law claims and application statistics	2-14

4	Maintaining the skills and ability to practice	2-15
4.1	Continuing professional development.....	2-15
4.2	Work-life balance	2-16
4.3	ASSIST.....	2-17
4.4	Law Society of Alberta practice review	2-17
5	Maintaining relationships with opposing counsel	2-19

CHAPTER 3 – THE BUSINESS OF FAMILY LAW

1	Forming a family law practice	3-2
1.1	Impact of family lawyers	3-2
1.2	Ethical practice.....	3-2
1.3	Building a family law practice.....	3-3
1.4	Firms and sole practitioners.....	3-3
1.5	Strategic networking.....	3-7
2	Office staff and systems.....	3-9
2.1	Office systems	3-9
2.2	A lawyer’s responsibilities.....	3-11
2.3	A legal assistant’s responsibilities	3-12
2.4	Office resources	3-14
2.5	The file	3-18
2.6	File management	3-22
2.7	Discussing legal fees	3-26
2.8	Estimating legal fees.....	3-27
2.9	Retainer	3-30
2.10	Retainer agreements	3-30
2.11	Security for fees	3-31
2.12	Billing practices	3-31
2.13	Collection of accounts	3-33
3	Communication.....	3-34
3.1	General communication principles.....	3-34
3.2	Electronic communication.....	3-35
3.3	Data security	3-35
3.4	Communication options.....	3-36
4	Refusing a client relationship	3-37

4.1	When to say no to a potential client	3-37
4.2	When and how to withdraw from a file	3-38
5	Appendix list.....	3-39

CHAPTER 4 – CLIENT RELATIONSHIPS

1	The initial interview.....	4-3
2	Before the initial interview	4-4
2.1	Conflicts of interest.....	4-4
2.2	Requesting information in advance.....	4-4
2.3	Explaining the law	4-4
3	Interviewing clients.....	4-5
3.1	The client’s state of mind	4-5
3.2	The lawyer’s state of mind.....	4-5
3.3	High conflict cases.....	4-6
3.4	Managing the interview	4-6
3.5	Fact gathering	4-9
3.6	Legal issues.....	4-9
3.7	Parenting After Separation seminar	4-10
3.8	Parenting considerations.....	4-10
3.9	Discussing child support.....	4-11
3.10	Discussing spousal support.....	4-12
3.11	Discussing property division.....	4-13
3.12	Possession of the family residence	4-13
3.13	Discussing urgent matters.....	4-14
3.14	Jurisdictional issues.....	4-17
3.15	Advice regarding estate matters.....	4-17
3.16	Reconciliation.....	4-18
3.17	Procedural options.....	4-18
3.18	Respecting the client’s wishes.....	4-19
3.19	Follow up after the interview	4-19
4	Managing client expectations.....	4-20
4.1	Address expectations early.....	4-20
4.2	Provide updates	4-21
4.3	Confirm advice and instructions in writing.....	4-21

4.4	Clients with mental health issues	4-21
4.5	Failure to effectively manage client expectations.....	4-22
4.6	Maintaining positive relationships with clients	4-23
4.7	Dealing with the influence of third parties	4-24
5	Appendix list.....	4-26

CHAPTER 5 – DISPUTE RESOLUTION OPTIONS

1	Introduction.....	5-2
1.1	Ethical and statutory obligations of lawyers.....	5-2
2	Dispute resolution options	5-4
2.1	Party-party resolution.....	5-4
2.2	Mediation.....	5-9
2.3	Collaborative law.....	5-11
2.4	Arbitration	5-14
2.5	Litigation model.....	5-16
3	Appendix list.....	5-20

CHAPTER 6 – PRACTICE IN RURAL AREAS

1	Introduction.....	6-2
2	Access to justice	6-2
2.1	Access to legal representation	6-2
2.2	Access to the courts.....	6-3
3	Transportation.....	6-4
4	Community supports	6-4
5	Considerations for rural practitioners	6-5
5.1	Necessary areas of expertise	6-5
5.2	Support for lawyers	6-5
5.3	Practical suggestions for rural lawyers	6-6
5.4	Benefits of a rural family law practice	6-6

CHAPTER 7 – RESOURCES

1	General resources for family lawyers	7-2
2	Government resources – Family Justice Services.....	7-3

ALBERTA FAMILY LAW PRACTICE MANUAL

2.1 Resolution and court administration services..... 7-3

2.2 Mediation services 7-3

2.3 Family court counsellors/intake services..... 7-3

2.4 Maintenance Enforcement Program..... 7-4

2.5 Child Support Recalculation Program..... 7-5

3 Collaborative law and mediation resources..... 7-5

4 Counsellors, psychologists, psychiatrists, and life coaches for clients 7-5

4.1 Counselling services 7-5

4.2 Divorce and life coaches 7-6

5 Experts..... 7-6

6 Seminars for clients..... 7-7

7 Literature for clients 7-8

ALBERTA FAMILY LAW PRACTICE MANUAL

PART II - SUBSTANTIVE LAW

TABLE OF CONTENTS

CHAPTER 1 - DIVORCE

1	Introduction to divorce	1-2
2	<i>Divorce Act</i>	1-2
3	Preliminary considerations before filing a statement of claim for divorce	1-3
3.1	Jurisdiction.....	1-3
3.2	Reconciliation.....	1-4
3.3	Proof of marriage	1-5
3.4	Picture of party to be served	1-5
3.5	Grounds	1-5
3.6	Children of the marriage.....	1-7
3.7	Duties of the parties	1-7
3.8	Parenting After Separation seminar	1-7
3.9	Corollary relief	1-8
3.10	Allegations of sexual abuse.....	1-9
4	Statement of claim for divorce.....	1-9
4.1	Form FL-1.....	1-9
4.2	Form FL-8.....	1-12
4.3	Filing and service	1-13
5	Procedure for defendant served with a statement of claim for divorce.....	1-14
6	Closing the divorce pleadings	1-16
7	Divorce without appearance by parties or counsel	1-16
7.1	Documents required	1-17
7.2	Scenarios.....	1-18
7.3	Affidavit of applicant – Form FL-23	1-19
7.4	Request for divorce – Form FL-21.....	1-21
7.5	Divorce judgment – Forms FL-25 and FL-26	1-22
7.6	Expedited divorce.....	1-23
7.7	Certificate of divorce.....	1-23
7.8	Reporting letter to client.....	1-23

8	Appendix list.....	1-23
CHAPTER 2 - PARENTING AND GUARDIANSHIP		
1	Introduction to parenting and guardianship	2-3
2	Alternative dispute resolution	2-3
3	Parenting and decision-making authority under the <i>Divorce Act</i>	2-6
3.1	Sole decision-making authority	2-6
3.2	Joint decision-making authority	2-6
3.3	Split decision-making authority.....	2-7
3.4	Shared decision-making authority	2-7
3.5	Parenting time	2-7
3.6	Contact Order by non-parents	2-8
4	Parenting claims	2-8
4.1	Procedure	2-8
4.2	Interim orders.....	2-8
4.3	Permanent orders	2-9
4.4	Third party claims.....	2-9
4.5	Parenting claims after divorce judgment.....	2-9
5	Variation of parenting orders	2-9
5.1	Procedure	2-9
5.2	Variation of interim orders.....	2-10
5.3	Variation of permanent orders	2-10
6	Proceedings under the <i>Family Law Act</i>	2-11
6.1	Jurisdiction.....	2-11
6.2	Concurrent proceedings	2-11
6.3	Procedure	2-11
6.4	Best interests of the child.....	2-12
7	Guardianship.....	2-12
7.1	Introduction	2-12
7.2	Parents as guardians.....	2-13
7.3	Third parties as guardians.....	2-13
7.4	Application by the child.....	2-13
7.5	Testamentary guardians.....	2-13
7.6	Termination of guardianship	2-14
7.7	Guardianship under the <i>Child, Youth and Family Enhancement Act</i>	2-14
7.8	Applications for guardianship.....	2-14

7.9	Consent to guardianship	2-15
8	Parenting.....	2-15
8.1	What is in a parenting order?	2-15
8.2	Parenting time	2-16
8.3	Variation of parenting order	2-16
9	Contact	2-17
9.1	Contact by parents.....	2-17
9.2	Contact by persons standing in the place of a parent.....	2-17
9.3	Contact by grandparents	2-17
9.4	Leave of the court	2-17
9.5	Variation of contact order	2-17
10	Enforcement of time with a child.....	2-18
10.1	Enforcement order	2-18
10.2	Variation of enforcement order.....	2-18
10.3	Failure to exercise time	2-18
11	Extra-provincial orders.....	2-19
11.1	Variation proceedings	2-19
12	<i>Parens patriae</i> jurisdiction	2-19
13	Appendix list.....	2-19

CHAPTER 3 - CHILD SUPPORT

1	Introduction to child support.....	3-2
2	Philosophy behind the child support guidelines	3-3
3	Objectives of the child support guidelines	3-4
4	The child support guidelines	3-4
4.1	Mandatory use of the child support guidelines.....	3-4
4.2	The court’s general discretion to depart from the child support guidelines	3-5
4.3	Variations of child support.....	3-6
4.4	Retroactive child support orders.....	3-7
5	Calculation of child support	3-8
5.1	Step 1: determine basic child support using tables	3-8
5.2	Step 2: calculation of s 7 expenses.....	3-14
5.3	Step 3: determine whether there is a claim for undue hardship.....	3-16
5.4	Effective budgets	3-18

5.5	Other special circumstances	3-18
6	Form of child support order	3-20
7	Obligations for financial disclosure	3-21
8	Application for child support	3-23
8.1	Procedure under the <i>Family Law Act</i>	3-23
9	Child support recalculation program	3-24
10	Appendix list.....	3-24

CHAPTER 4 - SPOUSAL AND PARTNER SUPPORT

1	Introduction to spousal and adult interdependent partner support	4-2
2	Spousal support under the <i>Divorce Act</i>	4-2
3	Theories of spousal support.....	4-3
3.1	Basic social obligation v independent marriage model.....	4-3
3.2	Compensatory support	4-4
3.3	Non-compensatory support.....	4-5
3.4	Contractual support	4-7
4	Variation applications vs review applications.....	4-8
5	Practical issues	4-9
6	<i>Spousal Support Advisory Guidelines</i>	4-10
7	The <i>Family Law Act</i>	4-11
7.1	When to proceed under the <i>Family Law Act</i>	4-11
7.2	Spousal and adult interdependent partner support.....	4-12
7.3	Spousal and adult interdependent partner support agreements.....	4-13
7.4	Termination of spousal support or adult interdependent partner support	4-14
7.5	Interim orders.....	4-14
7.6	Financial disclosure	4-14
8	Proceeding in Provincial Court or Court of Queen’s Bench.....	4-15
9	Tax consequences	4-16

CHAPTER 5 - PROPERTY

1	Introduction to property.....	5-2
2	<i>Family Property Act</i>	5-2
3	Limitation of actions	5-2

4	Disclosure.....	5-3
5	Classification of property.....	5-4
	5.1 Section 7(2) property	5-4
	5.2 Section 7(3) property	5-4
	5.3 Section 7(4) property	5-5
6	Valuation of property	5-5
	6.1 Expert witnesses	5-5
	6.2 Particular assets	5-6
	6.3 Income tax considerations	5-10
7	Procedural issues	5-11
	7.1 Commencement documents	5-11
	7.2 Third parties	5-11
	7.3 Statements of property	5-11
	7.4 Preservation of property	5-11
	7.5 Certificate of <i>lis pendens</i>	5-12
	7.6 Disposition of household goods.....	5-13
8	Evidentiary issues.....	5-13
	8.1 Tracing	5-13
	8.2 Section 8 factors.....	5-14
	8.3 Documentary evidence	5-16
9	Distribution of property.....	5-16
	9.1 Powers of the court.....	5-16
	9.2 Particular assets	5-17
10	Family home possession	5-22
	10.1 Exclusive possession	5-22
	10.2 <i>Law of Property Act</i>	5-23
11	Unjust enrichment	5-23
	11.1 Constructive or resulting trust.....	5-25
	11.2 <i>Quantum meruit</i>	5-27

CHAPTER 6 - PROTECTION ORDERS

1	Introduction to protection orders	6-2
2	<i>Protection Against Family Violence Act</i> definitions.....	6-2
	2.1 Family members.....	6-2

2.2	Family violence.....	6-3
2.3	Injury	6-4
2.4	Residence.....	6-4
2.5	Stalking.....	6-4
3	Protection orders.....	6-5
3.1	Emergency protection orders	6-5
3.2	Queen’s Bench Protection Orders.....	6-9
3.3	Service of protection orders	6-9
3.4	Breaches of protection orders.....	6-9
3.5	Warrant permitting entry	6-10
4	Restraining orders.....	6-11

CHAPTER 7 - ADOPTION

1	Introduction.....	7-2
1.1	Ministry of Children’s Services adoptions	7-2
1.2	Private adoptions	7-2
1.3	Inter-country adoptions.....	7-2
1.4	Step-parent adoptions	7-3
2	Effect of adoption	7-3
2.1	Payment.....	7-3
2.2	Advertising.....	7-3
3	Jurisdiction	7-4
4	Pre-application procedures	7-4
4.1	Direct placements.....	7-4
4.2	Adoption of Indigenous children	7-5
5	Form of application.....	7-6
5.1	Direct placements.....	7-6
5.2	Step-parent adoptions	7-6
6	Consent to adoption	7-8
6.1	Who must consent	7-8
6.2	Form of consent	7-8
7	Service requirements	7-10
7.1	Direct placements.....	7-10
7.2	Step-parent adoptions	7-10

7.3	Interlocutory applications	7-10
8	Hearing	7-11
8.1	Adjournments	7-11
8.2	Court appearances.....	7-11
9	Appeals.....	7-12
10	Setting aside adoption orders.....	7-12
11	Post adoption registry.....	7-12
12	Prescribed forms.....	7-13

CHAPTER 8 - EXTRAORDINARY REMEDIES

1	Introduction to extraordinary remedies.....	8-2
2	Judicial review.....	8-2
3	Injunction.....	8-3
3.1	Anton Piller order	8-4
3.2	Mareva injunction	8-5
4	<i>Family Property Act</i> relief	8-5
5	Conclusion.....	8-6

CHAPTER 9 - CHILD WELFARE

1	Introduction.....	9-3
2	Applicable statutes, regulations, and rules.....	9-3
2.1	<i>The Child, Youth and Family Enhancement Act</i> [CYFEA]	9-3
2.2	<i>An Act respecting First Nations, Inuit and Métis children, youth, and families</i>	9-4
2.3	<i>The Family Law Act</i> and the <i>Divorce Act</i>	9-5
2.4	Regulations.....	9-6
2.5	Additional related statutes	9-6
3	Introduction to the CYFEA	9-7
4	Definitions and interpretation in the CYFEA.....	9-7
4.1	“Guiding Principles”	9-8
4.2	“In need of intervention”	9-8
4.3	Matters to be considered	9-9
4.4	Procedural rights.....	9-11
4.5	Office of the Child and Youth Advocate Alberta	9-11

5	CYFEA Part 1: Intervention services	9-12
5.1	Division 1: Preliminary matters	9-13
5.2	Division 2: Agreements.....	9-13
5.3	Division 3: Court orders	9-14
5.4	Division 5: Private guardianship	9-27
6	Financial assistance to a caregiver	9-28
7	BAND INVOLVEMENT - First Nations child.....	9-28
8	Evidence.....	9-28
8.1	Witnesses	9-29
8.2	Confidential evidence	9-30
8.3	Age of a child	9-30
9	Right to appear	9-30
9.1	Legal representation.....	9-30
9.2	A parent’s right to counsel (s 7 of the <i>Charter</i>).....	9-31
10	Maintenance enforcement.....	9-31
11	Appeals to the Court of Queen’s Bench	9-31
11.1	Stay of an order pending appeal.....	9-32
12	Standard of review on appeal.....	9-33
13	Administrative reviews	9-33
13.1	Appeals of administrative reviews to the appeal panel.....	9-33
14	Confidentiality, information, and records.....	9-34
14.1	Privileged information.....	9-34
14.2	Applying for information.....	9-34
14.3	Publication ban	9-35
14.4	Records.....	9-35
15	Offence.....	9-35

CHAPTER 10 - TAX CONSIDERATIONS

1	Introduction to income tax considerations in family law.....	10-2
2	Tax considerations for the payment of support.....	10-2
2.1	Introduction	10-2
2.2	Support amount	10-3
2.3	Child support and spousal support.....	10-5
2.4	Commencement day.....	10-6

2.5	Payments to third parties	10-7
2.6	Prior payments	10-8
2.7	Characterizing support.....	10-8
2.8	Payment of arrears	10-10
2.9	Registration of orders/agreements	10-11
2.10	Other considerations.....	10-12
2.11	Other benefits and expenses	10-13
3	Property division	10-15
3.1	Introduction	10-15
3.2	Rollover of capital property	10-15
3.3	Corporate assets.....	10-16
3.4	Attribution	10-18
3.5	Principal residence.....	10-18
3.6	Registered investments.....	10-20
3.7	Joint and several liability	10-20
3.8	Deduction of legal fees.....	10-21
3.9	Tax forms	10-23
3.10	Useful links.....	10-23

CHAPTER 11 - FAMILY LAW AGREEMENTS

1	Introduction.....	11-2
2	Pre-separation agreements.....	11-3
3	Post-separation agreements.....	11-6
4	Disclosure.....	11-7
5	<i>Family Property Act</i>	11-7
6	Unjust enrichment and <i>Family Property Act</i>	11-8
7	The <i>Divorce Act</i> and <i>Family Law Act</i>	11-8
8	Independent legal advice	11-9
9	The agreement.....	11-10
9.1	Language	11-10
9.2	Organization	11-10
9.3	Recitals	11-11
9.4	Common provisions	11-11
9.5	Specific provisions	11-12

9.6 Retention of the agreement11-12

9.7 Execution of an agreement11-12

10 Appendix list.....11-12

ALBERTA FAMILY LAW PRACTICE MANUAL

PART III – PROCEDURE

TABLE OF CONTENTS

CHAPTER 1 – NEGOTIATION

1	Introduction to negotiation.....	1-2
2	Negotiation goals and frameworks.....	1-3
2.1	Negotiation styles.....	1-3
2.2	The competitive or positional strategy.....	1-3
2.3	The co-operative strategy	1-4
2.4	Interest-based or principled negotiation	1-5
2.5	Best Alternative to a Negotiated Agreement [BATNA]	1-7
2.6	Improving your effectiveness as a negotiator	1-7

CHAPTER 2 – MEDIATION

1	Introduction.....	2-2
2	The requirement to mediate	2-2
3	The benefits of mediation	2-3
4	Deciding when to mediate	2-4
5	Choosing a mediator	2-4
6	Ethical issues	2-6
7	The mediation process.....	2-6
8	Proper conduct during mediation	2-8
9	Power imbalances	2-8
10	Identifying and finalizing the resulting agreement	2-9
11	The finances of mediation.....	2-11
12	Mediation/arbitration	2-11
13	Appendix list.....	2-11

CHAPTER 3 – COLLABORATIVE LAW

1	Introduction.....	3-2
2	Training requirements	3-2

3	The participation agreement.....	3-2
4	The process.....	3-3
4.1	The lawyer’s role	3-4
4.2	Involvement of other professionals	3-5
4.3	Initial meeting with the client	3-5
4.4	Preparatory meeting between lawyer and client.....	3-6
4.5	Preparatory meeting between the lawyers.....	3-7
4.6	First 4-way meeting.....	3-7
4.7	Debriefing.....	3-7
4.8	Subsequent 4-way meetings	3-8
4.9	Finalization	3-9
5	Collaborative law v mediation.....	3-9
5.1	When collaborative law should be used.....	3-10
5.2	When collaborative law is not appropriate.....	3-10
5.3	Standard of practice	3-10
5.4	Confidentiality and privilege	3-11
5.5	Ending the process	3-12
6	Appendix list.....	3-12

CHAPTER 4 – ARBITRATION

1	Introduction to arbitration.....	4-2
2	The <i>Arbitration Act</i>	4-2
3	Referral to arbitration.....	4-4
3.1	When is arbitration appropriate?.....	4-4
3.2	Selection of an arbitrator.....	4-4
3.3	Procedure for referral	4-5
4	Preparing for arbitration.....	4-5
4.1	The lawyer’s role	4-6
5	Enforcement of an arbitrator’s award	4-7
6	Mediation/arbitration	4-8
7	Appendix list.....	4-9

CHAPTER 5 – THE RULES OF COURT

1	Introduction.....	5-3
2	Useful tools in the <i>Rules of Court</i>	5-3
3	Part 1: Foundational rules.....	5-4
	3.1 General rules (rules 1.1–1.10).....	5-4
	3.2 Division 1 of the family law rules (rules 12.1–12.4).....	5-4
4	Part 2: The parties to litigation.....	5-5
	4.1 General rules (rules 2.1–2.32).....	5-5
	4.2 Division 2 of the family law rules (rules 12.5–12.6).....	5-6
5	Part 3: Court actions.....	5-6
	5.1 General rules (rules 3.1–3.77).....	5-6
	5.2 Division 3 of family law rules (rules 12.7–12.33).....	5-6
6	Part 4: Managing litigation.....	5-8
	6.1 General rules (rules 4.1–4.37).....	5-8
	6.2 Division 4 of family law rules (rules 12.34–12.36).....	5-9
7	Part 5: Disclosure of information.....	5-9
	7.1 General rules (rules 5.1–5.44).....	5-9
	7.2 Division 5 of the family law rules (rules 12.37–12.42).....	5-10
8	Part 6: Resolving issues and preserving rights.....	5-11
	8.1 General rules (rules 6.1–6.65).....	5-11
	8.2 Division 6 of family law rules (rules 12.42–12.47).....	5-11
9	Part 7: Resolving claims without a full trial.....	5-12
	9.1 General rules (rules 7.1–7.11).....	5-12
	9.2 Division 7 of family law rules (rules 12.48–12.50).....	5-13
10	Part 8: Trial.....	5-13
	10.1 General rules (rules 8.1–8.24).....	5-13
	10.2 Division 8 of family law rules (rule 12.51).....	5-14
11	Part 9: Judgments and orders.....	5-14
	11.1 General rules (rules 9.1–9.51).....	5-14
	11.2 Division 9 of the family law rules (rules 12.52–12.54).....	5-15
12	Part 10: Lawyer’s charges, recoverable costs of litigation, and sanctions.....	5-15
	12.1 General rules (rules 10.1–10.55).....	5-15
	12.2 Family law rules.....	5-16

13	Part 11: Service of documents	5-16
	13.1 General rules (rules 11.1–11.32).....	5-16
	13.2 Division 10 of family law rules (rules 12.55–12.58).....	5-17
	13.3 Division 11 of family law rules: appeals (rules 12.59–12.71)	5-18
14	Part 13: Technical rules (rules 13.1–13.55).....	5-18
15	Forms.....	5-19

CHAPTER 6 – DISCLOSURE

1	Introduction to disclosure	6-2
2	Preserving integrity of the process	6-2
3	Problems getting disclosure.....	6-4
	3.1 From your own client.....	6-4
	3.2 From opposing party	6-4
4	Giving independent legal advice.....	6-5
5	Appendix list.....	6-8

CHAPTER 7 – INTERLOCUTORY APPLICATIONS

1	Introduction to interlocutory applications	7-2
2	Common types of applications	7-2
	2.1 Custody, access, parenting, and contact.....	7-2
	2.2 Guardianship.....	7-3
	2.3 Spousal/partner and child support.....	7-5
	2.4 Protection orders.....	7-6
	2.5 Preservation of property	7-8
	2.6 Document production	7-9
	2.7 Production of financial information	7-10
	2.8 Medical/psychological assessment or examination.....	7-11
	2.9 Contempt.....	7-11
	2.10 Consolidation of actions	7-11
3	Procedure.....	7-12
	3.1 Court of Queen’s Bench.....	7-12
	3.2 Time for making application.....	7-17
	3.3 Applications without notice	7-18
	3.4 Filing.....	7-19

3.5	Service	7-19
3.6	Hearing	7-20
3.7	Orders	7-21
3.8	Costs	7-21
3.9	Appeals	7-22
4	Provincial Court.....	7-22
4.1	Jurisdiction.....	7-22
4.2	Form of application	7-23
4.3	Time for making applications	7-23
5	Questioning on affidavits	7-25
6	Appendix list.....	7-25

CHAPTER 8 – CASE MANAGEMENT

1	Court assistance in managing litigation	8-2
1.1	Case management.....	8-2
1.2	Case conferences	8-4
2	Judicial dispute resolution	8-5
3	Summary proceedings.....	8-5
4	Expedited trials	8-5

CHAPTER 9 – TRIALS

1	Introduction to family law trials.....	9-2
2	Trial at the Court of Queen’s Bench	9-2
2.1	Commencing an action.....	9-2
2.2	Exchanging information	9-4
2.3	Experts’ reports and evidence.....	9-6
2.4	Types of experts	9-7
2.5	Affidavit of Records.....	9-9
2.6	Questioning.....	9-10
2.7	Offers to settle.....	9-13
2.8	Notices to Admit.....	9-14
2.9	Witnesses	9-15
2.10	Preparing clients for trial	9-16
2.11	Final trial preparation	9-17

2.12	Trial book.....	9-20
2.13	Conduct of a trial.....	9-22
3	Provincial Court.....	9-35
3.1	Introduction	9-35
3.2	Provincial Court trial procedure.....	9-35
3.3	Pleadings	9-35
3.4	Disclosure of financial information	9-36
3.5	Expert reports and evidence	9-36
3.6	Time requirements.....	9-36

CHAPTER 10 – JUDGMENTS AND ORDERS

1	Introduction to judgments and orders.....	10-2
2	Court of Queen’s Bench orders.....	10-2
2.1	Governing principles	10-2
2.2	Preparation of judgments and orders.....	10-4
2.3	Processing the order.....	10-15
2.4	Serving the order.....	10-16
2.5	Appeal periods.....	10-16
2.6	Correcting, setting aside, varying, and discharging judgments and orders	10-17
2.7	Orders made without notice	10-18
2.8	Consent orders and judgments.....	10-19
2.9	Having an order granted without a personal appearance.....	10-20
2.10	Provisional orders	10-20
2.11	Judgments and orders subject to conditions	10-20
2.12	Persons who are not parties.....	10-20
2.13	Registration of orders	10-21
3	Provincial Court orders	10-21
3.1	Practice in different districts	10-21
3.2	Drafting orders	10-21

CHAPTER 11 – COSTS

1	Introduction to costs.....	11-2
2	Order for costs	11-2
2.1	Discretionary	11-2

2.2	Entitlement.....	11-3
2.3	Purpose of costs.....	11-3
3	Classification of costs.....	11-4
3.1	Party and party costs	11-4
3.2	Solicitor–client costs.....	11-6
3.3	Timing of submissions to the courts on costs.....	11-7
4	Advance (interim) costs and security for costs	11-8
4.1	Application for security for costs.....	11-9
4.2	Order for security for costs	11-9
4.3	Applications and orders for advance costs	11-10
4.4	Costs payable by a barrister and solicitor	11-10
5	Costs on appeal	11-10
6	Preparing the bill of costs.....	11-11
6.1	Schedule C (<i>Rules of Court</i>)	11-11
6.2	Disbursements	11-11
6.3	Solicitor–client bill of costs	11-12
7	Dealing with the bill of costs	11-12
7.1	Reviewing a bill of costs	11-12
7.2	Negotiating a settlement.....	11-12
8	Assessment.....	11-12
8.1	Time for assessment	11-13
8.2	Appointment for assessment	11-13
8.3	Affidavit or certificate in support.....	11-13
8.4	Service	11-13
8.5	Hearing	11-13
8.6	Certification of costs	11-14
8.7	Appeal of assessment	11-14

CHAPTER 12 – APPEALS

1	Introduction to appeals in family law.....	12-2
2	Factors to consider in deciding whether to appeal	12-2
2.1	Legal factors.....	12-2
2.2	Economic factors.....	12-3
2.3	Personal factors	12-3

3	Limitation periods.....	12-4
4	Types of appeals.....	12-5
	4.1 Standard appeals.....	12-5
	4.2 Fast track appeals.....	12-5
5	The appeal process.....	12-6
	5.1 Right to appeal.....	12-6
	5.2 Documents.....	12-7
6	Struck appeals.....	12-14
7	Appeal applications.....	12-15
	7.1 Single appeal judge.....	12-16
	7.2 Panel of the Court of Appeal.....	12-18
8	Discontinuance of an appeal.....	12-18
9	Judicial dispute resolution.....	12-18
10	Hearing date.....	12-19
	10.1 Setting the date.....	12-19
11	Preparation for hearing.....	12-19
	11.1 Review and update.....	12-19
	11.2 New arguments.....	12-20
12	Hearing.....	12-20
	12.1 Location and time.....	12-20
	12.2 Procedure.....	12-20
13	Judgments and orders.....	12-22
	13.1 Costs.....	12-23
14	Practice directions and forms.....	12-23
15	Appendix list.....	12-23

CHAPTER 13 – ENFORCEMENT AND VARIATION OF ORDERS

1	Introduction.....	13-3
2	General provisions.....	13-3
	2.1 <i>Divorce Act</i>	13-3
	2.2 Enforcement of Court of Queen’s Bench orders.....	13-4
	2.3 Enforcement of support agreements.....	13-4
	2.4 Gathering information.....	13-4
3	Custody and access orders.....	13-5
	3.1 Extra-provincial custody and access orders.....	13-6

3.2	Obtaining an address.....	13-7
3.3	Police enforcement of custody orders.....	13-7
3.4	Enforcement of access orders and enforcement of time with a child.....	13-9
4	Maintenance orders	13-11
4.1	Introduction	13-11
4.2	The <i>Maintenance Enforcement Act</i>	13-12
4.3	Gathering information about the debtor.....	13-14
4.4	The Maintenance Enforcement Program	13-17
4.5	When to use the Maintenance Enforcement Program	13-17
4.6	Filing an order with the Director.....	13-19
4.7	The effect of filing an order	13-19
4.8	Maintenance Enforcement Program tips for lawyers	13-24
5	Other methods of enforcement	13-30
5.1	Demand letter	13-30
5.2	Garnishment or diversion of funds	13-31
5.3	Garnishment of federal payments and diversion of benefits.....	13-37
5.4	Default hearing.....	13-40
5.5	Imprisonment and committal orders	13-42
5.6	Order for payment.....	13-43
5.7	Seizure of property.....	13-44
5.8	Appointment of a receiver	13-45
5.9	Restraining orders.....	13-46
5.10	Arrest of an absconding debtor.....	13-46
5.11	Enforcement of extra-provincial and foreign maintenance orders	13-46
6	The Child Support Recalculation Program	13-48
6.1	Purpose of the Child Support Recalculation Program	13-49
6.2	Child support recalculation process	13-50
6.3	Mandatory Recalculation Program clauses.....	13-51
6.4	Eligible orders.....	13-52
6.5	Child support agreements	13-53
6.6	Registering with the Recalculation Program	13-54
6.7	Withdrawal from the Recalculation Program	13-54
6.8	Non-disclosure of income.....	13-54
6.9	Self-employment	13-55
6.10	After recalculation.....	13-57

6.11	Disagreement with the recalculation.....	13-58
6.12	How the Recalculation Program affects family lawyers.....	13-59
6.13	<i>Lavergne v Lavergne</i>	13-63
7	International child abduction.....	13-63
7.1	Application procedure.....	13-64
7.2	Duty of the contracting state.....	13-65
7.3	Legal aspects.....	13-66
7.4	Resources.....	13-67
7.5	Practical tips.....	13-68
7.6	Access.....	13-69
7.7	Conclusion.....	13-69
8	Appendix list.....	13-69

CHAPTER 14 – TECHNOLOGY IN THE COURTROOM

1	Introduction.....	14-2
2	Attendance by teleconference.....	14-2
3	Electronic evidence.....	14-3
4	Electronic filing (e-filing) and fax filing of court documents.....	14-4
5	Alberta courts website.....	14-4