BILL C-78: An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act

Brief by
LEAF (Women's Legal Education and Action Fund)

Introduction:

LEAF (Women's Legal Education and Action Fund) has reviewed and endorsed the Brief on Bill C-78 submitted by Luke's Place Support and Resource Centre and the National Association of Women and the Law (Luke's Place and NAWL). LEAF participated in a consultation on Bill C-78 organized by Luke's Place and NAWL.

LEAF's brief highlights the aspects of Bill C-78 that LEAF considers to be positive but also highlights concerns about the impact of other aspects of the Bill on women's substantive equality and children's well-being. This brief offers a research-based assessment of Bill C-78. Our sub-committee includes experts on the family law system and dispute resolution processes; violence against women and children in families; child custody law and law reform processes; and the intersection of child custody law with women's status within families.[1] The Brief proposes concrete ways to address our concerns and should be read in conjunction with the Brief submitted by Luke's Place and NAWL. We highlight some of their specific recommendations and summarize our recommendations at the end of the Brief.

Positive Changes in Bill C-78:

LEAF strongly supports the fact that Bill C-78 directs courts to take into consideration only the best interests of the child in making parenting or contact orders (s. 16(1)). We also strongly support s. 16(2), which directs courts to give primary consideration to the child's physical, emotional and psychological safety, security and well-being. Section 16.92(2) on relocation is also an important addition.

While the definition of family violence in the Bill could be improved, mandatory consideration of family violence and "history of care" in the list of best interests of the child factors that judges must consider, as well as the identification of child safety, security and well-being as the primary consideration, are very positive, research-informed improvements that take into account issues related to women's substantive equality interests and the prevention of harm to children.

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[1] Professor Emerita Susan B. Boyd, F.R.S.C., Peter A. Allard School of Law, University of British Columbia; The Honourable Donna Martinson, Q.C, retired Justice of the British Columbia Supreme Court; Professor Emerita Linda C. Neilson, Research Fellow, Muriel McQueen Fergusson Centre for Family Violence Research, University of New Brunswick; Shaun O'Brien, Executive Director and General Counsel, LEAF; Karen Segal, Staff Lawyer, LEAF; Professor Wanda Wiegers, College of Law, University of Saskatchewan.

The requirement in s. 16(3)(e) to consider child views and preferences recognizes that the perspectives of children are inextricably linked to their best interests. The provision also places the *Divorce Act* in line with Canada's obligations pursuant to the United Nations *Convention on the Rights of the Child,* Article 12*,* which obligates Canada, in all matters affecting the child, to ensure that the views of all children, without discrimination, are heard and given due weight – taken seriously – in accordance with age and maturity. The new provision should help to prevent the current practice of ignoring the views of children when claims of alienation are made and where family violence is at issue.[2]

Necessary Revisions to Bill C-78:

The laudable goals of Bill C-78 will fall short unless certain provisions are revised. Research demonstrates that women targeted by family violence and related abusive behaviour confront major hurdles when they try to protect themselves and their children in the face of statutes and/or case law that include maximum contact or time, even when statutory provisions emphasize the best interests of the child.[3] If women cannot show that there are risks of harm in the future, the assumption is that maximum time with each parent, as well as full cooperation and communication, and mediation are all appropriate. This assumption is highly problematic in many scenarios, especially when family violence is at issue. We elaborate on our concerns below and suggest revisions (*in italics*).

Revise s. 16(3)(c), (i) & (j) "Factors to be considered" in determining best interests:

Bill C-78 outlines various factors that shall be considered when determining the best interests of children, which is an important overdue change.

We strongly support inclusion of "family violence" and "history of care" as factors in s. 16(3). Family violence in a home where children reside is an empirically verified form of child abuse. Perpetrating family violence against intimate and former intimate partners is associated both with

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[2] The Honourable D. J. Martinson & C. E. Tempesta, "Young People as Humans in Family Court Processes, A Child Rights Approach to Legal Representation" (2018) 31 Can. J. Fam. L. at 162 to 168; L C Neilson, *Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights?* (Fredericton: Muriel McQueen Fergusson Centre of Family Violence Research and Vancouver: The FREDA Centre for Research on Violence Against Women and Children, 2018) at: http://www.fredacentre.com/reports/reports/ .

[3] See, e.g.: S. Boyd *Child Custody, Law and Women's Work* (Toronto: Oxford University Press, 2003); R. Langer, "Male Domestic Abuse: The Continuing Contrast Between Women's Experiences and Juridical Responses". C.J.L.S. 10(1) (1995): 65-90; H. Rhoades, R. Graycar & M. Harrison, *Can Changing Legislation Change Legal Culture, Legal Practice and Community Expectations Final Report*. Sydney: Australian Research Council and Family Courts of Australia, 2000, at: http://www.familycourt.gov.au/wps/wcm/connect/fcoaweb/reports-and-publications/reports/2000/FCOA_pr_FLRA_95_First_Three_Years ; H. Rhoades, "The 'No Contact Mother': Reconstructions of Motherhood in the Era of the "new Father'. *International Journal of Law Politics and the Family* 1 (2); D. Saunders & K. Oehme, *Child Custody and Visitation Decision in Domestic Violence Cases: Legal Trends, Risk Factors, and Safety Concerns* (revised 2007): https://vawnet.org/sites/default/files/materials/files/2016-09/AR_CustodyREVISED.pdf .

direct forms of abuse directed at children and with negative post-separation parenting practices that can harm children and prevent healing.[4] All children who live in an environment where there is domestic violence against a caregiver or other family member are harmed, whether the behavior is witnessed or not.[5]

Some factors in section 16(3) require rewording in order to be effective and to avoid difficulties that arise especially in cases involving family violence against women and children.

We are concerned that parts of section 16(3), specifically s. 16(3)(c) and (i) which encourage communication and cooperation between spouses, could result in spouses who are unable to cooperate or communicate as a result of risks associated with conflict, abuse or violence being penalized, particularly in family violence cases.

We endorse Luke's Place and NAWL's recommendation #4 to remove subsections 16(3)(c) & (i).

Failing that, clear exceptions should be written into such sections for family violence, as recommended by Luke's Place and NAWL (#4.1 and #4.2):

> **(c)** each spouse's willingness to support the development and maintenance of the child's relationship with the other spouse, *except in cases of family violence, or when it is otherwise contrary to the child's best interests to develop or maintain a relationship with the other spouse*;
> **(i)** the ability and willingness of each person in respect of whom the order would apply to communicate and cooperate, in particular with one another, on matters affecting the child, *except when such communication and cooperation are contrary to the child's best interests, including in cases of family violence involving either the other spouse and/or the child.*

Section 16(3)(j), which requires consideration of "any family violence and its impact on, among things…", is framed incorrectly. The central concern should be what the patterns of behaviour associated with the family violence tell us about the perpetrator's capacity to parent. Patterns of behaviour associated with perpetrating family violence are commonly replicated in parenting practices.[6] The priority, therefore, is to avoid making false assumptions about the benefits of

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[4] See research from medical and social science disciplines discussed and cited in L. C. Neilson (2017) Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases (Ottawa: Canadian Legal Information Institute), in Chapters 6 and 11, Supplementary Reference 2 and Supplementary Reference Bibliography. See also Children Living with Domestic Violence Research Team, Canadian Domestic Homicide Prevention Initiative.

[5] See research from medical and social science disciplines discussed and cited in S. Artz et al, "A Comprehensive Review of the Literature on the Impact of Exposure to Intimate Partner Violence for Children and Youth" (2014) 5:4 Intl J Child, Youth & Family Studies.

[6] See for example L. Bancroft, J. Silverman & D. Ritchie (2012, 2nd ed.) *The Batterer as Parent: Addressing the Impact of Domestic Violence on Families* (Sage); research cited in Linda C Neilson (2017) *Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases* (Ottawa: Canadian Legal Information Institute) at 11.1.10; C. Humphries and M. Campo (2017), *Fathers who use violence Options for safe practice where there is ongoing contact with children* (Australia Government); R. Kaspiew et al. (2017) *Domestic and family violence and parenting: Mixed method insights into impact and support needs: Final Report* (Sydney: Anrows); J. Arean et al. (2008) *Fathering After Violence Working with Abusive Fathers in Supervised Visitation* (Family Violence Prevention Fund):

contact and instead to assess carefully risks to the child as well as the parenting practices of perpetrators in each case. There should be a duty to consider (as there is in child protection cases) the impact of family violence on children and on children's needs for safety, security and stability. This duty to consider parenting in family violence cases should be framed as a question of the child's best interests and needs.

We strongly endorse Luke's Place and NAWL's recommendations #4.3 and #4.4 on improving subsections 16(3)(j) and 16(4)(g), as follows:

> *(j) any family violence, and in particular, but not limited to (i) its impact on the child; (ii) its impact on the child's relationship with each spouse; (iii) its impact on the appropriateness of making an order that would require persons in respect of whom the order would apply to cooperate on issues affecting the child; (iv) the importance of protecting the physical, emotional and psychological safety, security and well-being of the spouse not engaging in family violence (noting that self-defence does not constitute family violence); (v) its association with negative parenting practices on the part of the person who engaged in a pattern of family violence; (vi) the demonstrated capacity of any person who engaged in family violence to prioritize the best interests of the child and to meet the needs of the child.*

Section 16(4)(g) should require clear demonstration of improvement when steps have been taken to prevent family violence:

> *(g) evidence that the person engaging in family violence has taken steps both to ensure he does not perpetrate further family violence, and to prevent family violence from occurring and to improve their ability to care for and meet the needs of the child and that the steps have resulted in positive changes in behaviour.*

Revise s. 16(5) Relating to Past Conduct:

Bill C-78 suggests that past conduct of spouses should not be taken into consideration unless the conduct is relevant to the exercise of their parenting time, decision-making responsibility or contact with the child. The original intention in prohibiting the consideration of past conduct was to prevent marital misconduct such as adulterous conduct of women from being taken into account in child custody and spousal support determinations, as had happened previously.[7] In practice, however, the prohibition sometimes means that judges have not taken into account past parenting practices (whether good or bad) or past family violence or abuse by a parent, unless there was proof that such abuse was directed at the child.[8]

The wording in Bill C-78 lacks the clarity that is necessary to ensure that past parenting practices as well as family violence are taken into account when determining the best interests of the child.

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https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/fathering_after_violence.pdf .

[7] K. Douglas (2001). "Divorce Law in Canada". Library of Parliament. http://publications.gc.ca/collections/Collection-R/LoPBdP/CIR/963-e.htm; Boyd, *Child Custody, Law, and Women's Work*, above note 3, chapter 3.

[8] L. Neilson, "Spousal Abuse, Children and the Courts: The Case For Social Rather than Legal Change" (1997) 12(1) Can. J. Law and Society 101-145; M. Rosnes, "The Invisibility of Male Violence in Canadian Child Custody and Access Decision Making" (1997) 14(1) Can. J. Fam. L. 31-60.

We endorse Luke's Place and NAWL's recommendation #4.6 that the obligation to take certain past conduct into account be phrased more affirmatively:

> Past Conduct
> ***(5)*** *In determining what is in the best interests of the child, the court shall take into consideration all past conduct relevant to the exercise of their parenting time, decision-making responsibility or contact with the child under a contact order.*

Any wording chosen to address past conduct must ensure a consideration of *past practices relating to parenting, particularly the exercise of parental contact, parenting duties and responsibilities toward the child.*

Remove s. 16.2(1) "Maximum Parenting Time":

We are concerned that section 16.2(1) on maximum parenting time will "trump" the appropriate focus on the safety, security and well-being of children that Bill C-78 otherwise offers. Research studies in Canada and elsewhere[9] have documented the devastating effects on women, children and families of lawyers, mediators and courts making assumptions, without careful scrutiny of parenting evidence, about the benefits of maximizing children's contact with both parents. Assumptions in legislation and/or case law about maximum contact are known to result in reduced scrutiny of issues associated with safety and other best interests of the child factors. As a result, a number of well-respected domestic-violence-legal-system researchers now call for an end to maximum contact provisions (as well as "friendly parent" provisions).[10] Even if violence is not an issue, a maximum time provision detracts from children's right to have their actual best interests – viewed both broadly and on a day to day basis – determined on a case by case basis, a right supported by the United Nations Convention on the Rights of the Child.

The proposed maximum time section in Bill C-78 is not framed as a presumption per se, but in practice courts often interpret it as such even when the best interests of children are emphasized in the maximum time provision. That is, too often decision-makers ignore the caveat about the best interests of the child, and instead simply assume that maximum time is in the best interests of the child. As a result, safety concerns related to family violence against women and/or children can be subordinated or marginalized.

We strongly recommend removal of the "Maximum Parenting Time" provision in s. 16.2(1).

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[9] S. B. Boyd & R. Lindy, "Violence Against Women and the B.C. Family Law Act: Early Jurisprudence" (2016) 35(2) Can. Fam. L Qtly 101-138; L. Neilson et. al. (2001) *Spousal Abuse, Children and the Legal System* (Muriel McQueen Fergusson Centre for Family violence research), Neilson 2018, above note 2; H. Rhoades & S. Boyd, "Reforming Custody Laws: A Comparative Study" (2004) 18:2 Int'l J. of Law, Policy and the Family 119-146; D. Bagshaw et al. (2011) *The effect of family violence on post-separation parenting arrangements* (Australia Government): https://aifs.gov.au/publications/family-matters/issue-86/effect-family-violence-post-separation-parenting-arrangements

[10] For example, Daniel Saunders (2017) *State Laws Related to Family Judges' and Custody Evaluators' Recommendations in Cases of Intimate Partner Violen*ce, online at https://deepblue.lib.umich.edu/handle/2027.42/136636.

If, however, s. 16.2(1) is not removed, we strongly recommend that the heading "Maximum Parenting Time be replaced with "Best Interests and Parenting Time" because:

The current heading does not reflect the actual content of the section, which says only that a child should have "as much time with each spouse as is consistent with the best interests of the child." Use of the word maximum can be misleading.
We also suggest that the intent of making sure that the time spent is in the child's best interests would be best achieved by saying, instead, and in line with s. 16(2), "…as is consistent with the child's physical, emotional and psychological safety, security and well-being."

We also endorse Luke's Place and NAWL's recommendation #6.1 for a section specifying what courts shall not presume when determining the best interests of the child:
The court shall not presume
(2.1) *In determining the best interests of the child, the court shall not presume any particular arrangement to be in the best interests of the child and without limiting this:* ***(i) it must not be presumed*** *that custody/decision-making responsibilities should be allocated equally between spouses;* ***(ii) it must not be presumed*** *that custody and access/parenting time should be shared equally between spouses;* ***(iii) it must not be presumed*** *that each spouse should be allocated as much parenting time as possible;* ***(iv) it must not be presumed*** *that decisions regarding the child should be made either by one spouse or jointly* ***(v) it must not be presumed*** *that there should be maximum contact between a child and parent*

Revise s. 16.2(3) "Day-to-day decisions":

We are concerned that section 16.2(3) imposes "parallel parenting" as a default position. Parallel parenting can have very serious implications in family violence cases. The research has documented repeatedly the use by perpetrators of parenting time to engage children in activities that cause fear or harm in order to intimidate the non-abusing spouse and/or to undermine children's relationship with that parent.[11] Section 16.2(3), as currently worded, would make it difficult for the protective parent to complain about such inappropriate use of parenting time.

We endorse Luke's Place and NAWL's recommendation #9:

Amend section 16.2 so that day-to-day decisions cannot conflict with decisions made by the parent with primary decision-making responsibility and remove "exclusive authority."

Day-to-day decisions
(3) Unless the court orders otherwise, a person to whom parenting time is allocated under paragraph 16.1(4)(a) ~~has exclusive authority to~~ may, subject to compliance with best interests of the child principles set out in this Act, make, during that time, day-to-day decisions affecting the child.
Day-to-day decisions shall not conflict
(4) *Notwithstanding, section 16.2(3) a parent shall not, during allocated parenting time, make decisions that conflict with decisions made by the parent with custody/decision-making responsibility, or that are contrary to the best interests of the child.*

[11] Bancroft, Silverman & Ritchie 2012, above note 6; L. Neilson et. al. (2001) *Spousal Abuse, Children and the Legal System* (Muriel McQueen Fergusson Centre for Family violence research); P. Jaffe et. al. "Parenting Arrangements After Domestic Violence" (2005) *J. of the Centre for Families Children and the Courts* 95-107; D. Bagshaw et al. (2011), above note 9.

Revise Relocation Sections 16.9(1), 16.92(d), 16.93(1) & (2):

Section 16.92(2) importantly removes the double bind mothers so often experience.[12]

We are, however, very concerned about the notice section 16.9(1), the use of "substantially" in s. 16.93(1), and especially the term "vast" in s. 16.93(2) to qualify "majority of their time" in the burden of proof sections.

Regarding the application for an exemption from notice requirements, we are very concerned about situations where mothers are unable to access timely and affordable legal services and yet their safety and that of their children may require immediate relocation.

We emphasize accordingly the need for mothers to be able to apply ex parte for an exemption from all or any part of the requirements to give notice under subsection 16.9(2).

In addition, we highly recommend that s. 16.92(d) be revised as follows:
(d) subject to taking into account risks associated with family violence, whether the person who intends to relocate the child complied with any applicable notice requirement...

We otherwise endorse Luke's Place and NAWL's Recommendations #11, #12, #13 to the provisions on notice, burden of proof and factors relevant to assessment of a child's best interests. In general, these sections require further thought and clarification in order to better protect the safety and security of children and their caregivers.

Revise s. 7.3 and 7.7 "Family Dispute Resolution Process":

We strongly support the Luke's Place and NAWL recommendation that the Act should reflect and respect women's autonomy and agency to make informed decisions, with all necessary legal advice, about whether accessing the courts or using out of court dispute resolution processes are best suited for them. These processes, which can be provided by non-lawyers as well as lawyers, include negotiation, mediation and collaborative approaches. The duties relating to the family dispute resolution processes that are imposed by Bill C-78 on women in divorce proceedings, and their lawyers (legal advisors) if they have them, do the opposite. They discourage access to courts, require women to prove they are entitled to access courts, and make out of court resolution the legal norm. In cases where gender inequality has historically been, and to a significant extent continues to be, entrenched in family laws and practices, and in which the stakes for women and children could not be higher, the obligations imposed are barriers to women's ability to advance their rights to the equal benefit and protection of the law through courts. They create significant access to justice challenges for them. Out of court processes may not only derogate from women's legal entitlements, but can do so in an environment which does not address inequality, including income inequality, and power imbalances, particularly in family

[12] That is, mothers undermine their case for relocation either by saying they will not move in the event relocation is denied (since judges then are tempted to affirm the status quo) or by saying they will move (which can be seen as prioritizing their own interests over the child's).

violence cases, and may encourage women to settle inappropriately, compromising their safety, security and well-being, and that of their children.[13]

The duty imposed on lawyers to encourage women to attempt to resolve matters through those processes unless it would *clearly* not be appropriate to do so also directly conflicts with the ethical responsibilities of lawyers to women under the Model Code of Professional Conduct to effectively represent their legal interests.[14] The ethical obligations appropriately require lawyers to investigate facts, determine applicable legal principles, which include substantive equality principles, identify issues, ascertain client objects, and then consider possible courses of action.[15] They also include the obligations, when acting as an advocate, to represent the client resolutely and honourably within the limits of the law[16] and to endeavour to obtain for the client the benefit of every remedy and defence authorized by law.[17] Lawyers also have an ethical duty to advise and encourage a client to compromise or settle a dispute whenever it is possible to do so on a reasonable basis,[18] a duty that is different in nature from the stringent one in the Bill, and one which can only be fulfilled after analyzing the client's legal entitlements and determining appropriate options. The duty the Act imposes on lawyers deprives women of the benefit of necessary legal advice.

We accordingly endorse Luke's Place and NAWL's recommendations 14 and 15 on family dispute resolution:
#14: Remove the duty for parties to resolve matters through family dispute resolution and include reference to family violence.

Note: In LEAF's view, no matter what language is chosen, it must reflect the fact that family dispute resolution should only be encouraged if it is relevant and not inappropriate to do so, especially with regard to the risks that ongoing contact between spouses may pose in cases of family violence.

#15: Include a duty to screen for family violence and inform clients on all available processes:
Section 7.7
Duty to discuss and inform
(2) *It is also the duty of every legal adviser who undertakes to act on a person's behalf in any proceeding under this Act*
(a) *to assess whether family violence may be present, using an accredited family violence screening tool, and the extent to which the family violence may adversely affect*
(a)the safety of the party or a family member of that party, and

[13] For concerns about efforts to place barriers to women's ability to access courts, and related concerns about using dispute resolution in family violence cases, see W. Wiegers, J. Koshan & J. Mosher, *Early Dispute Resolution in Family Law Disputes, Comments on Proposed Provisions,* Saskatchewan, 2017; D. Martinson & M. Jackson, "Family Violence and Evolving Judicial Roles: Judges as Equality Guardians in Family Law Cases" (2017) 30 Can. J. Fm. L. 1.; L. Neilson, *Putting Revisions to the Divorce Act through a Family Violence Filters: The Good, The Bad and the Ugly* (2003) 20(1) Can. J. Fam. L 11-56.
[14] Federation of Law Societies Model Code of Professional Conduct
[15] Ibid 3.1-1.
[16] Ibid 5.1-1
[17] Ibid Commentary to 5.1-1.
[18] Ibid 3.2-4.

(b)the ability of the party to negotiate a fair agreement.
(a.1) *to inform the person of all the available processes to resolve the matters that may be the subject of an order under this Act, including family dispute resolution processes.*

Family Orders and Agreements Enforcement Assistance Act:

Finally, we have concerns about proposed changes to this *Act* regarding release of information. *We recommend additional consultation with family violence experts prior to implementation.*

Conclusion:

The most appropriate function of the Divorce Act and related legislation is to provide protection for the most vulnerable women, families, and children. The current version of Bill C-78 goes some way towards fulfilling this function. It is, however, of crucial importance that the Bill be revised along the lines that we outline above, and that Luke's Place and NAWL propose, in order that it completely provide protection for women, families, and children, in particular those who are the most vulnerable.

In addition, legislative changes, no matter how promising, will fail to produce good results if the actors in the legal system are not well educated about the complexity and multifaceted nature of both family law and family violence and the effects of both on women and children. Misunderstandings and misconceptions about family violence and gender equality continue to prevail and to cause problems in divorce proceedings. Legal advisers, those who conduct family dispute resolution, and decision-makers must be provided education and resources in order to overcome these problems. In addition, they must be educated about how to use appropriate screening tools so that family violence will be taken into consideration at every stage of proceedings.

Recommendation: Under Duties in section 7.7, include an education requirement for all those involved in the divorce proceedings, including legal advisers, those who conduct family dispute resolution, and decision-makers.

Summary of Recommendations:

Remove subsections 16(3)(c) & (i). Failing that, clear exceptions should be written into such sections for family violence, as recommended by Luke's Place and NAWL (#4.1 and #4.2) [p. 3 of our Brief].

Improve language on family violence in subsections 16(3)(j) and 16(4)(g) [pp. 4 of our Brief].

Phrase the obligation to take certain past conduct into account more affirmatively in order to ensure consideration of past practices relating to parenting, particularly the exercise of parental contact, parenting duties and responsibilities towards the child [p. 5 of our Brief].

Remove the "Maximum Parenting Time" provision in s. 16.2(1) [p. 5 of our Brief].
Failing removal, replace the heading with "Best Interests and Parenting Time" and instead of "as is consistent with the best interests of the child" substitute "as is consistent with the child's physical, emotional and psychological safety, security and well-being" (the language in s. 16(2)) [p. 6 of our Brief].

Add a section specifying what courts shall not presume when determining the best interests of the child [p. 6 of our Brief].

Revise s. 16.2(3) so that day-to-day decisions cannot conflict with decisions made by the parent with primary decision-making responsibility, and remove "exclusive" authority" [p. 6 of our Brief].

Revise relocation s.16.92(d) to add "subject to taking into account risks associated with family violence" [p. 7 of our Brief].

Revise relocation sections 16.9(1), 16.93(1) and (2) provisions on notice and burden of proof in order to better protect the safety and security of children and their caregivers [p. 7 of our Brief].

Revise the duty for parties to resolve matters through family dispute resolution and include reference to family violence. [p. 8 of our Brief].

Under Duties in s. 7.7, add a duty to screen for family violence and inform clients on all available processes [pp. 8-9 of our Brief].

Conduct additional consultation with family violence experts prior to implementation of the Family Orders and Agreements Enforcement Assistance Act [p. 9 of our Brief].

Under Duties in s. 7.7, include an education requirement for all those involved in the divorce proceedings, including legal advisers, those who conduct family dispute resolution, and decision-makers [p. 9 of our Brief]

A Note on LEAF (Women's Legal Education and Action Fund):

Founded in 1985, and with branches across the country, LEAF is a leading national organization dedicated to strengthening equality rights in Canada. LEAF has extensive expertise and experience in promoting and protecting women's substantive equality. LEAF uses litigation, law reform work and public education to advance the rights of women and girls in Canada, particularly those who experience multiple and distinct forms of discrimination arising from the intersection of several grounds of discrimination, such as sex, gender, marital or family status, race, sexual orientation, disability, Indigenous ancestry, and socio-economic status. LEAF engages a substantive approach to equality, which recognizes historically and socially-based disadvantages and challenges systemic discrimination. LEAF also has unique expertise in law reform informed by a gender equality analysis, and has been at the forefront of advocating for and defending legislation designed to advance and protect women's substantive equality. In addition to challenging discriminatory law and policy, LEAF has regularly advocated for the implementation of legislative changes that would advance women's equality, and has intervened in cases to defend laws that improves women's material lives. Relevant to Bill C-78, LEAF has intervened on legal issues related to spousal support, relocation, enforcement of family court orders, separation agreements, family status discrimination, sex discrimination in the Indian Act, violence against women, women's socio-economic rights, and reproductive freedom.

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