



PRINCE EDWARD ISLAND  
Advisory Council on the Status of  
**WOMEN**

**PEI Advisory Council  
on the Status of Women**

**Family Law Policy Guide  
REPORT CARD**

The PEI Advisory Council on the Status of Women (ACSW) met with the PEI Attorney General's Office to discuss recommendations from their Family Law Policy Guide released in February 2002. Minister Jeff Lantz expressed his department's commitment to ensure that each of the ACSW recommendations be addressed. The Advisory Council requested an annual "report card" to monitor the progress made. This report card was submitted to Council members at their quarterly meeting in September 2002.

**ACSW RECOMMENDATION:** Amend the *Family Law Act*. Include people of the same sex in the definition of "spouse." Apply all aspects of the law equally to all spouses, including the division of property for common-law spouses. Provide a vehicle for overriding domestic contracts in specified circumstances. Establish special provisions and procedures for situations involving family violence.

**Government Response:** *In response to a proposal from the Office of the Attorney General, the Legislative Review Committee has directed that all government departments review relevant legislation with a view to providing similar rights and benefits to same sex and opposite sex common-law partners as are provided to married couples.*

**ACSW RECOMMENDATION:** Amend the *Probate Act* to ensure that it reflects the principle of economic partnership as established in the *Family Law Act*.

**Government Response:** *The Probate Act will be included in the review mentioned above.*

**ACSW RECOMMENDATION:** Create legislation that establishes rigorous standards for the mediation profession.

**Government Response:** *Generally, professions that are regulated through legislation initiate the proposal to government to establish legislation that sets educational requirements, standards of practice, processes for licensing and disciplinary procedure.*

**ACSW RECOMMENDATION:** Work with the federal government to initiate a nationally standardized, cost-shared family legal aid program that is available to all income-eligible applicants who require legal representation in matters of property division, child/spousal support and custody arrangements.

**Government Response:** *The Office of the Attorney General will continue to work with the federal government to improve legal aid services for those who require assistance and representation in family law matters.*

**ACSW RECOMMENDATION:** Following changes in legislation or service provision, conduct a comprehensive campaign to inform the public regarding the real, practical effects on their partnerships and families.

**Government Response:** *Generally, when changes in legislation or service provision occur, consideration is given by the promoting department to a communication strategy to inform affected or interested parties. However, improvements can be made to communication strategies.*

**ACSW RECOMMENDATION:** Establish an agency as a first point of entry for women, men and children upon the breakdown of the family unit to provide information, assessment, and referrals for legal and non-legal professional services. Some non-legal services could include distributing self-help kits and enabling supervised custody, along with providing voluntary counselling, mediation and parenting programs.

**Government Response:** *The Office of the Attorney General has established a Family Section with a view to bringing the components of family law services currently offered into one cohesive unit: maintenance enforcement, child support guidelines, family court counsellors, parent education. As resources become available, there is an intention to establish a position within the Family Law Section to act as the first point of contact for anyone requesting services of the Family Law Section.*

**ACSW RECOMMENDATION:** Provide training to agency staff, mediators, lawyers, and judges about the realities of family violence and its after effects.

**Government Response:** *The Premier's Action Committee on Family Violence Prevention - Five Year Strategy identifies awareness, education and training as part of its action plan. A number of strategies have been identified to address the goals of increased awareness and sensitivity about the extent, impact and nature of family violence, improved access to information relating to family violence and enhanced training and understanding for responding to family violence. Such strategies include providing customized training for key responders to family violence and building upon the success of existing training programs and workplace projects in developing training materials and opportunities for all employers and employees.*

*On Friday, April 12, 2002, a Continuing Legal Education Seminar was sponsored by the Law Society of Prince Edward Island and the Office of the Attorney General entitled "Family Violence and the Justice System." This seminar was attended by lawyers, articled clerks and the judiciary. Presenters and panellists included members of the judiciary, crown prosecutors, legal aid lawyers, a departmental solicitor with the Office of the Attorney General, a member of the RCMP, representatives from Probation Services and Victim Services, Executive Director of Transition House and the Provincial Family Violence Consultant*

**ACSW RECOMMENDATION:** Work with the federal government so that, if it amends the *Divorce Act*, the legislation will include a range of custody options with no presumption for any of them except in cases of family violence where special provisions and procedures should apply.

**Government Response:** *The Office of the Attorney General appreciates the concerns respecting family violence in the context of separation and divorce. It further recognizes that the presence of family violence is a critical factor in some divorce proceedings. There has been considerable consultation on changes aimed at improving the legislation. The Office of the Attorney General will continue to work with the federal government to support amendments that reduce an adversarial approach and focus on the best interests of the child.*

**ACSW RECOMMENDATION:** Conduct a review of the Maintenance Enforcement Program to assess and recommend program resources and services improvements.

**Government Response:** *The Office of the Attorney General has reviewed the way in which family law services are presently provided within the department and are moving toward a more integrated and coordinated approach to the provision of family law services through the ongoing development of the Family Law Section. Presently, the department has been asked to proceed within existing resources. The Maintenance Enforcement Program is part of the Family Law Section. In moving toward a more integrated and coordinated approach to the provision of family law services, program resources are being reviewed and the opportunity for service improvements is being identified.*

**ACSW RECOMMENDATION:** Revise the Family Support Orders Program so that women with a history of abuse from a non-supporting former partner can opt out of the program without incurring financial penalties.

**Government Response:** *"...So, in response to the recommendation that the FSOP be revised to allow women with a history of abuse from the former partner to opt out of participation, I would suggest that this has, in effect, been in place from the beginning of the program in 1994. The fact that clients are "forced" to participate in the program means nothing more than that they must attend a consultation with a program solicitor to determine what, if any, legal action would be feasible in the circumstances." reply by Susan Birt, Director of Child, Family and Community Services.*