



## MINIMIZING COURT BACKLOG AND DELAYS: REPOSITORY OF PROMISING PRACTICES

### ***A Statement from the Action Committee***

*Our Committee exists to support Canada's courts as they work to protect the health and safety of all court users in the COVID-19 context while supporting access to justice and upholding the fundamental values of our justice system. These mutually sustaining commitments guide all of our efforts. As part of its mandate, the Committee encourages learning from pandemic-related innovation.*

### **CONTEXT**

Successful strategies to tackle court backlog and delays usually involve multiple areas of intervention. Given the interdependency between courts, justice stakeholders and other persons involved in or affected by the court process, strategies built upon multi-stakeholder collaboration and inclusion are often the most effective. Combining approaches that address each of the overarching and operational principles described in the Action Committee's [Roadmap to Recovery: Orienting Principles for Reducing Court Backlog and Delays](#) can optimize the success of these strategies in response to the pandemic and beyond. These principles are as follows:

#### **Overarching Principles – To Promote an Effective, User-Centred and Needs-Based Approach**

1. Using change leadership and management strategies to promote a culture shift
2. Addressing the diverse needs of justice system participants
3. Measuring and tracking delays and backlog to assess progress and effectiveness
4. Promoting the accountability of parties and their counsel
5. Promoting and structuring multi-stakeholder collaboration

#### **Operational Principles – To Optimize Processes and Reduce Backlog and Delays in Practice**

6. Implementing early and ongoing, robust and consistent case management practices
7. Promoting early judicial or alternate dispute resolution
8. Optimizing scheduling practices
9. Eliminating unnecessary court appearances
10. Optimizing case flow processes and eliminating administrative inefficiencies
11. Sharing or pooling of court resources

This non-exhaustive repository provides an overview of promising practices implemented by courts and justice stakeholders across Canada that align with each principle. While recognizing that many solutions to address court backlog and delays lie beyond the boundaries of the court system, this repository focuses on court-related processes to improve the timely progression and disposition of new or existing cases before the courts. Some practices predate the pandemic and have proven effective in navigating the crisis, while others represent innovations adopted or expanded in response to the pandemic. In some



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cases, practices may illustrate a combination of principles. As promising practices continue to emerge, the Action Committee invites courts and justice stakeholders to forward any further information of interest to the following address: [AC-secretariat-CA@fja-cmf.gc.ca](mailto:AC-secretariat-CA@fja-cmf.gc.ca).

### OVERARCHING PRINCIPLES

#### 1. Using Change Leadership and Management Strategies to Promote a Culture Shift

Implementing strategies to minimize court backlog and delays can involve major and rapid change. Adopting a change leadership and change management approach to review existing processes, map out key objectives and options for improvement, involve stakeholders throughout the process, and support gradual change can enhance success rates.

- During the pandemic, various jurisdictions implemented small-scale pilot projects to test out new practices and procedures in collaboration with justice sector partners before evaluating, adjusting and ultimately expanding them to other regions or settings. This document outlines several examples of pilot projects under various principles.
- To address change fatigue among judicial colleagues affected by the rapid digitalization of court operations in response to the pandemic, the Chief Justice of the Court of King's Bench of Alberta organized a series of small sessions to hear their concerns and suggestions. The Court then circulated a report to participants summarizing the findings from these sessions.
- For additional examples of change leadership and management in court settings, see the Action Committee's [Orienting Principles: Leading and Managing Change in the Courts](#).

#### 2. Addressing the Diverse Needs of Justice System Participants

Anticipating and responding to the needs of justice system participants who face specific barriers to accessing justice is key to promoting the timely and effective progression of their court cases and to minimizing administrative burdens for all stakeholders involved. Affected participants may include, among others, self-represented individuals, members of different marginalized groups, and populations who are overrepresented in the court system, as detailed in the Action Committee's publication on the [Impact of COVID-19 on Access to Justice for Marginalized Individuals](#). While barriers are widespread and extend beyond the courts—as do corresponding solutions and their implementers—this repository highlights sample initiatives to meet the needs of certain disadvantaged groups in the court setting.

##### *Self-Represented Litigants*

- In 2006, the Canadian Judicial Council (CJC) adopted a [Statement of Principles on Self-Represented Litigants and Accused Persons](#) to assist courts and justice stakeholders in meeting the needs of these litigants. See the Action Committee's [Tip Sheet on applying the CJC's enduring principles in the context of the pandemic](#), which outlines practical solutions and promising practices from courts across Canada.



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### *Indigenous Peoples*

- To address the overrepresentation of Indigenous children and parents and reduce delays in child protection proceedings, the Manitoba Court of King's Bench launched a new child protection model in Winnipeg in 2017 and expanded it across the province in 2019. Within the first year, a strengthened intake process involving strict timelines helped to resolve approximately 80% of cases within a single court appearance, with most unresolved cases proceeding to, and resolving at a single pre-trial conference. The model has promoted a culture shift where parents—usually assisted by counsel—are more involved in, and better prepared for the process. This in turn has led to better and timelier outcomes for children and families and, during the pandemic, it has helped the court to avoid backlog and delays in child protection proceedings.
- Led by BC First Nations Justice Council, British Columbia's recently launched [Virtual Indigenous Justice Centre](#) provides no-cost legal referrals and, in some cases, legal assistance to Indigenous litigants involved in criminal or child protection proceedings, with an aim to reducing their overrepresentation in these areas of the justice system. As a complement to in-person services in its three current centres, the Virtual Centre offers remote services to Indigenous populations living in underserved communities across the province. A navigator person connects clients to lawyers to help them through legal and court processes.

### *Linguistic Minorities*

- The Court of King's Bench of Alberta recently implemented a pilot project to identify and integrate French language needs more proactively into court processes in criminal, civil and family matters. In particular, the Court
  - Added to its website a simple [electronic form](#) to request a French trial or other hearing
  - Introduced an audio recording in all criminal arraignment courts explaining at the start of proceedings, in both English and French, the right to a trial in either official language to promote proactive offer
  - Supported staff training on language rights
  - Created the new position of Counsel for French and Interpretation Services from existing resources to liaise with the court, interpreters, counsel and litigants, the media and the public to provide French or bilingual services, and to collect relevant statistics and prepare periodic reports on French language needs
- Linguistic minorities may also include speakers of Indigenous languages and of a wide range of languages or dialects originating from around the world. For a detailed analysis of the impact of the pandemic on the needs of court users from linguistic minorities, as well as related best practices, see the Action Committee's paper on the [Impact of the COVID-19 Pandemic on Interpretation and Translation Needs of Court Users](#).



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### *Persons with Disabilities*

- Every courthouse operated by the Ontario Ministry of the Attorney General has one or more [accessibility coordinators](#) who work with court users with disabilities, and with persons or organizations who support them, to determine appropriate accommodation to access courthouse services and participate in a court proceeding. Requests for accommodation can be made to the coordinators in a way that is most convenient and accessible to the individual (in person, by letter or email, over the telephone, and by Bell Relay or Video Relay). Examples of common accommodations include assistive listening devices, sign language interpretation, real-time captioning, courtroom adaptations, scheduling adjustments and alternative/accessible formats of documents. Other requests will also be considered as needed. If an accommodation is needed for a court proceeding, the presiding judicial official may need to approve it. Individuals are asked to identify their needs as far in advance of a hearing as possible, to allow time to arrange accommodation, and seek approvals when needed.
- Established in 2007, the mandate of the [Ontario Courts Accessibility Committee](#) (OCAC) is to provide ideas, information and advice to help make Ontario's courts more accessible to people with disabilities with the goal of an accessible and barrier-free court system. The OCAC has continued its work throughout the pandemic. Its membership includes judiciary from all levels of court, the Ontario Bar, executives from the Ministry of the Attorney General and community organizations representing people with disabilities.

### *Gender Inclusivity*

- Several courts recently implemented procedures to encourage counsel and other hearing participants to identify their titles (e.g. Mr., Ms., Mx.) and personal pronouns (he/him, she/her, they/them, or other) for use in court proceedings. These measures aim to foster respect and gender inclusivity and to prevent harmful misgendering. They also help to streamline proceedings by preventing incorrect gender assumptions that could lead to unintended distractions or errors on the record. For example, see the practice directions from the [Provincial](#) and [Supreme](#) Courts of British Columbia, the Courts of Appeal of [Manitoba](#), [Nova Scotia](#) and [Ontario](#), and the Supreme Court of [Yukon](#).

### *Special Considerations Relating to Technology*

- The Court of Appeal of Newfoundland and Labrador offers a monthly [Legal Assistance Clinic](#) for self-represented litigants supported by volunteer lawyers. In response to the pandemic, clinic lawyers have expanded the use of technology (such as videoconference and teleconference) to meet with clinic users. Both lawyers and participants have found this virtual approach convenient, and the use of such technology will continue beyond the pandemic.
- The Ontario Superior Court of Justice leveraged technological resources to mitigate the impacts of reduced in-person access to the courts on self-represented litigants (SRLs) and vulnerable persons during the pandemic. To help connect SRLs in family matters to legal and other services, the court collaborated with the Law Society of Ontario on the development of an emergency referral hotline. To assist parents involved in child protection proceedings and protect litigants in family cases involving domestic violence, the Superior Court of Justice and the Ontario Court of Justice distributed several



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hundred mobile phones or data cards obtained through corporate donations.

- In the Ontario Court of Justice, local court workers collaborated with community-based support services—including First Nations, mental health, bail supervision and youth organizations—to help Indigenous and vulnerable populations connect to virtual courts during the pandemic. These stakeholders provided access to technology and in-person support in off-site locations, and some made home visits.
- To support litigants and counsel in virtual hearings, the Court of Appeal for Saskatchewan’s deputy registrars offer “navigator” support for the use of technology for filing documents electronically as well as for attending virtual hearings. The Court has also made a laptop and support persons available in its facilities for those who need access to, and support for, the use of technology to participate effectively in virtual hearings.

### 3. Measuring and Tracking Delays and Backlog to Assess Progress and Effectiveness

Defining court backlog and delays and implementing standardized systems and indicators to track case progression are essential steps in identifying trends, issues and areas for improvement. Such systems and indicators are also crucial for evaluating the effectiveness of any new strategies adopted to address court backlog and delays.

#### *Criminal Cases*

- The Ontario Court of Justice’s Criminal Justice Modernization Committee publishes an annual [dashboard](#) that tracks a number of case progression, backlog and delay indicators. This includes disaggregated data on the age of pending cases, disposition times, disposition rates at various stages of criminal proceedings, and collapse rates at trial. These annual reports include comparative data from the past 10 years.
- [British Columbia’s Court Services](#) published a five-year dashboard that lists the number of completed criminal cases in the Provincial Court by fiscal year, with data divided into adult, youth and ticket matters. In addition, the Provincial Court of British Columbia publishes an [Annual Report](#), which sets out new caseload data by division of the court, and includes comparative data over a period of five years.
- Statistics Canada publishes results of the Integrated Criminal Court Survey that include an [annual dashboard](#) on the progression of adult and youth criminal cases in trial courts across Canada. The survey has established common definitions and indicators to measure backlog and delays, court workload and case processing. It relies upon data collected by provincial and territorial governments responsible for court administration. To provide more timely information on the impact of the pandemic on criminal court operations, Statistics Canada also started issuing [preliminary quarterly reports](#) in June 2021.

#### *Civil, Family and Other Types of Cases*

- The Federal Court publishes [quarterly statistics](#) that list the number and percentages of proceedings commenced, pending and disposed of by type of case. This data also



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includes comparative data by quarter and year.

- The Court of Appeal for British Columbia publishes an [Annual Report](#) that includes civil, criminal and combined statistics on appeals filed and court dispositions, with comparative data spanning 12-13 years. Similarly, the Supreme Court of British Columbia publishes an [Annual Report](#) with statistics on new cases as well as trials heard or bumped in criminal, civil and family matters, including comparative data spanning 10 years.
- Statistics Canada publishes annual results of the [Civil Court Survey](#) that tracks key indicators in various types of civil and family cases, including active cases and disposition times. The survey relies upon court data collected by provincial and territorial governments. The Civil Court Survey is currently undergoing a modernization project to ensure it captures relevant data required to support the development or review of policies, programs and services in civil and family law.

#### 4. Promoting the Accountability of Parties and their Counsel

The judiciary plays a key role not only in regulating court processes, but perhaps more importantly, in communicating and enforcing them effectively. By ensuring that parties and counsel are aware of expectations and held to their obligations at various stages, judicial leaders can ensure cases progress rapidly, fairly and effectively through the courts. Consulting affected parties and counsel in developing new practices can also help to promote acceptance and compliance.

- Various courts—including the [Federal Court](#) and the Court of Appeal of New Brunswick—leveraged existing Bench and Bar Committees to engage with public and private sector litigators when adopting or reviewing court procedures in response to the pandemic. This approach can help promote acceptance and compliance by the Bar, while ensuring procedures are effective in practice. It can also encourage the Bar to communicate issues and recommendations proactively to the courts, to improve justice delivery.
- In consultation with the Bar, the Ontario Court of Appeal began providing Zoom links during the pandemic to enable all counsel to join hearings virtually, even if their matter was scheduled to be heard in person. This practice has provided the ability to pivot instantly to a hybrid or fully online forum as required, which in turn has prevented last-minute adjournments when counsel were unexpectedly unable to attend in person but still able to participate virtually, for example if required to self-isolate or unable to travel due to public health measures. This practice has also promoted party accountability by reinforcing the message that, absent exceptional circumstances precluding participation, hearings will proceed as scheduled.
- In response to inadequate preparation levels, the Ontario Superior Court of Justice recently obtained amendments to Family Law Rules to strengthen the obligation of parties in family matters to discuss outstanding requests for financial disclosure and other issues in dispute in advance of a case conference or a settlement conference, in order to improve the efficiency of these conferences. This includes a duty to explore



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areas of agreement, resolution options and procedural matters before the conference. Certain exceptions apply, such as if a court order prohibits communication between the parties or if there are concerns of domestic violence and the alleged abusive party is self-represented.

### 5. Promoting and Structuring Multi-Stakeholder Collaboration

Since many stakeholders are involved in, or affected by, court proceedings, working collaboratively—within the boundaries of judicial independence—is key to identifying challenges and implementing workable solutions to tackle court backlog and delays and improve access to justice.

Before and during the pandemic, various courts across Canada established structured partnerships either internally or with external justice stakeholders to tackle certain crosscutting issues such as backlog and delays; emergency responses and continuity of court operations; and justice transformation and modernization, including digitization of court hearings and processes. For example:

#### *Emergency Response and Continuity of Operations*

- Well before the pandemic started, the Court of Appeal of Alberta had an emergency Preparedness Plan in place including an official Practice Note designating authorities and permitting time extensions. The Plan contemplated pandemics and infrastructure / human resource disruptions. With that institutional foundation in place, the Chief Justice and the Executive Director / Registrar were able to immediately set up an emergency response structure geared to the pandemic involving two teams:

- 1) an Emergency Response Team (ERT) accountable for strategic direction and policy setting chaired by the Chief Justice with two puisne judges and the Executive Director/Registrar, and
- 2) an Emergency Response Management Team responsible for frontline reporting to the ERT and implementation of changes

This structure allowed information to flow both ways, decisions to be made quickly, and policies and procedures to be implemented immediately. The Court also communicated directly with the Bar throughout the pandemic by engaging with the Law Society of Alberta, the Alberta Branch of the Canadian Bar Association and the Advocates' Society. The legitimacy of directions made by the Court via the two teams was never in doubt.

- At the onset of the pandemic, the Ontario Superior Court of Justice convened working groups in criminal, civil, family and small claims matters to support the continuity or resumption of court operations. The working groups include members of the judiciary (including regional representation), the bar, and the Ministry of the Attorney General. These working groups have supported efforts to develop or amend rules of procedure, protocols and court forms; to implement virtual processes; to prioritize urgent cases; and to define broader modernization strategies.
- When the pandemic hit, the Ontario Bar Association organized weekly meetings to promote communication and discussion between all levels of court, the Ministry of the Attorney General, bar associations across the province, and other justice sector partners including legal aid and the Law Society of Ontario. This initiative provided stakeholders



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with an opportunity to share updates and ask questions as the situation evolved, and helped to strengthen working relationships. Meetings still occur, though less frequently, to align with current needs.

- The Provincial Court of British Columbia's pandemic response was informed by regular consultation with stakeholder groups. When some court operations were reduced temporarily, the Court organized telephone meetings with stakeholders, at first daily and then weekly. Stakeholders included the Provincial and Supreme Courts; the Public Prosecution Service of Canada; several units within the provincial Ministries of the Attorney General and of Public Safety and Solicitor General; the Office of the Police Complaints Commissioner; private Bar and legal aid organizations; the BC First Nations Justice Council; the Courthouse libraries BC; and the Provincial Health Services Authority.

The Associate Chief Judges also held, and continue to hold, regular monthly meetings with criminal and family court stakeholders. In the criminal context, these meetings include federal and provincial Crown counsel; the Provincial Court Legal Officers; representatives of Legal Aid BC and the defence bar; and the Court Services Branch of the Ministry of the Attorney General. The family law meetings involve various representatives from the Ministries of the Attorney General and Public Safety and Solicitor General; Director's Counsel Group (Child Protections); the Association of Legal Aid Lawyers; a number of advocacy groups such as Rise Women's Legal Centre; Mediate BC; and private counsel.

### *Justice Transformation and Modernization*

- In Nova Scotia, the Chief Judge of the Provincial Court sits on the [Criminal Justice Transformation Group](#) (CJTG), along with decision-makers from the Department of Justice, police, prosecutors, defence bar and legal aid. The CJTG operates by collecting and sharing information, identifying areas for improvement, developing and implementing projects to fix the problems identified, and tracking and evaluating the impact of changes. As part of her work with the CJTG, the Chief Judge established the COVID-19 Best Practices Working Group to ensure a coordinated and effective response to the pandemic and to promote accessibility in the Provincial Court specifically. This Working Group included a series of sub-working groups that focused on specific aspects of people-centred approaches and digital transformation, including court backlog and delays, and virtual court. The final report of the COVID-19 Working Group helped identify lessons learned, best practices and gaps in service, and was submitted to the CJTG for consideration in future decisions affecting the Provincial Court.
- In the summer of 2020, Nova Scotia's Court of Appeal, Supreme Court, and Provincial and Family Courts established an All Courts Virtual Court Committee to coordinate their pandemic response and facilitate the rollout of virtual technologies at all levels of court. The Committee has allowed members of the judiciary and justice officials involved in court administration and IT to share information on needs and challenges and to work together towards solutions. The Committee also promoted the training of judges and others on new virtual processes, using a change management approach. In addition, the Committee conducted a special project with Pro Bono Dalhousie to collect data on the impact of virtual court proceedings on historically marginalized individuals and communities. Students interviewed court users, counsel and members of community justice organizations on their experiences in order to address barriers to accessing virtual court





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and to ensure the needs of marginalized individuals are considered in future decisions on the use of virtual court.

- In 2016, [Table Justice-Québec](#) (*French link only*) was established as a consultative body to foster collaboration between the judiciary and other justice stakeholders in addressing backlog and delays in criminal courts. In June 2020, this Table was reconvened to coordinate the reopening of the courts and help reduce delays in response to the pandemic, while supporting broader modernization and digitization efforts already under way. Table partners included the Minister of Justice and Attorney General, Chief Justices or Chief Judges of all three levels of Court, the Director of public prosecutions (DPCP), and the Heads of the provincial Bar (Barreau du Québec), provincial notaries association (Chambre des notaires), and legal aid (Commission des services juridiques). In November 2020, the Table issued an [Action Plan](#) (*French link only*) focused on a people-centred approach to promote accessible justice in criminal, civil and family and youth matters. Recommendations and implementation strategies focused on optimizing efficiencies to reduce delays and costs for litigants, simplifying procedures, and promoting alternative dispute resolution. Three sub-committees of experts in criminal and quasi-criminal law, civil law and small claims, and family and youth law supported this work.

### OPERATIONAL PRINCIPLES

#### 6. Implementing Early and Ongoing, Robust and Consistent Case Management Practices

By managing individual cases thoroughly from the start, designated judges or appointed legal experts can address issues clearly and explore available options early in the court process, to streamline the case towards an appropriate resolution or a more focused hearing. By enforcing party commitments and obligations consistently, case management officials can also reduce the risk of cases collapsing or resolving on the date of the hearing.

##### *Criminal Cases*

- The Court of King's Bench of Alberta recently hired a reputed, retired local lawyer as a judicial officer to conduct criminal pre-trial conferences (PTCs) for judge-alone trials in Edmonton. This role includes setting deadlines for pre-trial motions, canvassing resolution options, and directing that additional PTCs be held as needed. The lawyer's experience as both former Crown and defence counsel has helped to obtain buy-in from all parties. This process has helped sort out issues before setting trial dates, made scheduling more efficient, and alleviated the workload of judges.
- At the outset of the pandemic, the Provincial Court of British Columbia began mandating pre-trial conferences (PTC) before setting a date for longer adult and youth criminal trials or preliminary inquiries where the accused is represented by counsel. The purpose of this ongoing initiative is twofold: first, to reduce the rate of cases collapsing on the scheduled trial date by ensuring that only cases that actually require a trial are set for hearing; second, to reduce the number of trial continuations by ensuring that all trial scheduling is based on accurate time estimates. The governing [practice direction](#) sets



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out the obligations of the parties before and during the PTC and includes a [checklist](#) to promote proper preparation and active engagement in exploring resolution options and managing trial issues. The practice direction also sets out the various steps the PTC judge can take to ensure parties adhere to their commitments, including preparing a [PTC report](#) for the trial judge. This process has helped to increase early communication between the Crown and defence, reduce the number of trials, and narrow the scope of trials that do proceed.

- In response to the pandemic, and with funding from Legal Aid Ontario, the Ontario Court of Justice launched [mandatory judicial pre-trials \(JPTs\)](#) to explore resolution options for COVID-impacted cases. From March to June 2020, JPTs were required for all cases where a trial or preliminary hearing was adjourned. From July 2020 to October 2020, during the initial resumption of trial proceedings, mandatory JPTs were expanded to all cases scheduled for trial or a preliminary hearing. JPTs were also encouraged in other cases. This initiative significantly increased resolution rates and decreased the number of COVID-adjourned trials that needed to be rescheduled.
- In September 2021, the Ontario Court of Justice implemented a [Judge-Led Intensive Case Management Court \(JICMC\)](#) across the province to help address the backlog of criminal cases created by the pandemic. The JICMC operates as a complement to regular case management courts, and focuses on older cases that require further case management before a trial or preliminary inquiry can be set or a resolution can be reached. The JICMC is mandatory for all cases 15 months or older—including those involving a self-represented accused—unless otherwise directed by the Regional Senior Justice. This enhanced case management process ensures the parties appear before a judge two months before a trial to confirm whether the case is proceeding, whether witnesses are available, and whether the time estimate for trial is accurate.

### *Family Cases*

- Initiated by its judges, the Court of Appeal of Alberta had been in discussions before the pandemic to expand on the triage model for court proceedings. This initiative was not pandemic driven though it was pandemic accelerated.

In October 2020, the Court launched an [Appeal Conference \(AC\) pilot project](#) for all family law fast track appeals to promote access to justice and resolution of appeals while reducing family conflict and expenses for litigants. To assist parties in participating in this process, the Court published a [pilot project guide](#).

Under this project, ACs are mandatory, confidential and non-prejudicial. They are scheduled approximately two weeks after the filing of an appeal and require the parties to file a [standardized form](#) that outlines resolved and unresolved issues and contains a settlement offer made in good faith. A single judge guides the parties informally through a two-part process: a settlement discussion and a procedural component under which the judge can make an order if the parties agree. The scope of the AC may extend beyond the issues under appeal.

- Building upon a proposed unified family court model, the Court of King's Bench of Alberta created a docket triage court for family matters during the pandemic. "Resolution counsel"



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experienced in mediation were hired to assist with determining which families are most likely to go to trial and which are amenable to early resolution, to increase resolution rates and thus reduce the number of family law trials. Families who proceed to trial receive assistance to develop a litigation plan.

- Ontario's Superior Court of Justice offers Early Intervention Court for family matters in certain locations where court backlog may prevent early access to a more fulsome case conference. Parties can request an early and brief attendance before a judge to help them put urgent or temporary arrangements in place without the need for an urgent motion. Parties can also seek procedural directions to determine next steps and whether any steps need to be expedited.
- Ontario's Superior Court of Justice also offers a Dispute Resolution Officers (DRO) Program for family litigants in certain locations, where senior family lawyers are appointed as a neutral third party to conduct family case conferences. They help the parties explore resolution options, narrow the issues in dispute and coordinate next steps, such as creating a schedule for disclosure and other pre-trial requirements. If a settlement is reached, it is brought before a judge to be endorsed. The number of DRO sittings in existing locations was recently increased, and the program was expanded to three additional locations.
- The Provincial Court of British Columbia's early case management model in family matters is an approach to resolving family disputes used in Victoria since 2019. It makes trying to resolve disputes by agreement the first step in the court process. People are referred to assessment, mediation, and parenting education earlier in the process than under previous family court rules. Experience in Victoria showed the approach can help families resolve their issues without going to court. When fewer cases are scheduled for court, hearings can be scheduled sooner for those who need them. Plans to implement the model in Surrey and necessary Provincial Court Family Rules amendments were expedited to provide the benefits of this approach in British Columbia's busiest family court, beginning in December 2020. At the same time, BC Ministry of Justice's Family Justice Services Division—which provides free, confidential legal information and mediation services at 25 centres—made services available by telephone and videoconferencing throughout the province so services can be provided even if parents reside in different communities.

### *Civil Cases*

- As provided by its [Rules of Court](#), the Court of King's Bench of Alberta frequently schedules Early Case Conferences in civil matters. Presided by a Justice, these conferences help counsel organize a timetable for all pre-trial steps and canvass alternative dispute resolution options in the early stages of proceedings.

### *Appeal Cases*

- In 2007, the Court of Appeal of Alberta created the position of [Case Management Officer](#) (CMO) to act as a liaison between the courts and litigants (or their counsel), and to promote timely triaging and progression of its civil (including family) and criminal cases.



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CMOs are experienced lawyers who draw their authority from a combination of legislation, Rules of Court and judicial delegation.

The CMOs—one in each of the Court’s two locations—assist with the management of matters by issuing administrative directions and decisions, providing procedural advice to counsel and self-represented litigants, and offering suggestions or options for resolution to judges in certain procedural matters. In particular, CMOs review every appeal filed; determine when permission to appeal is required; categorize civil appeals to determine which process (standard or fast tracked) will apply; enforce or modify appeal requirements and timelines; determine when appeals should be struck; restore appeals on consent; decide contested requests for adjournment; resolve disputes relating to court orders; and recommend judicial dispute resolution (JDR).

In addition to providing procedural advice to streamline court processes, CMOs typically render over 1,000 decisions and directions per year, which used to be handled mainly by judges. A CMO’s decision is subject to review by a single judge, but review applications are rare in practice. CMOs also play a role in court operations and administration and are involved in developing court policy and supporting new initiatives, including pilot projects.

- The Court Martial Court of Appeal of Canada hears matters across the country. Prior to the pandemic, most motions and pre-hearing conferences were held by teleconference when counsel were unable to appear in person. During the pandemic, these matters were held by videoconference at the option of the parties and with the Chief Justice physically present in the courtroom, resulting in more fulsome exchanges that helped to focus issues more effectively. This optional videoconferencing practice is likely to continue beyond the pandemic.

### 7. Promoting Early Judicial or Alternate Dispute Resolution

In many instances, judicial or alternative dispute resolution may prove timelier, less costly, and more beneficial to the parties and persons affected by a case than proceeding to trial. Implementing structured processes to explore these options early and thoroughly can greatly reduce the need for court appearances and help to manage court caseloads, while reducing the rate of cases that resolve on the date of a hearing.

#### *Judicial Dispute Resolution*

- In July 2020, the Supreme Court of Nova Scotia’s Family Division unveiled its [eCourt pilot program](#), an online platform for judicial dispute resolution (JDR) where lawyers for both parties can engage in real time, online text exchanges with a judge. This project complements existing JDR processes by providing an additional, consent-based option for court users. The text-based nature of the exchange can help to reduce tensions associated with the adversarial court process that might impede resolution. The browser-based eCourt platform requires no special software and streamlines the electronic filing of documents, while eliminating filing fees. The platform also creates an automatic transcript of the text exchange, including any court orders, which can promote clarity and prevent delays in determining next steps. The court continues to add features to the program and aims to eventually expand access to self-represented litigants.



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- The Court of Appeal of Alberta's Judicial Dispute Resolution (JDR) program had been in place as an in-person process before the pandemic. The pilot focused on implementing strategies to increase participation.

In October 2020, Court of Appeal of Alberta expanded its [electronic JDR Program](#) as a one-year pilot project to promote early resolution in family and civil matters. JDRs may be binding or non-binding and may extend beyond the issues under appeal. JDR was available for any forms of civil matters. The pandemic realities converted this to a web platform-based process. With web platform JDR in bipartite cases, the clients and counsel can gather in their offices with all their necessary materials and with the other parties at a distance (which is sometimes appropriate in family cases). On the other hand, the Court has noted that counsel with cases involving multiple professional or industrial parties seem to prefer the live JDR process for practical reasons. This experience suggests anecdotal support for the idea that web platform JDR should not merely remain on offer but may well be adaptable in future.

- In May 2021, the Ontario Superior Court of Justice launched a [Binding JDR pilot project](#) in select locations to help resolve family cases, and has gradually expanded it to other regions. The project offers a consent-based option to parties in straightforward family matters to resolve their case more quickly and at lesser expense – this includes matters where credibility is not an issue and experts are not required. The parties agree to engage in an informal process led by a judge, which combines elements of a settlement discussion with an informal trial, if necessary, where rules of evidence are relaxed. The parties may agree to resolve any issues, and the judge decides any remaining issues based on the [affidavits](#) and supporting documents filed.
- In addition, the Ontario Superior Court of Justice and the Ontario Court of Justice recently amended the Family Law Rules to allow parties who have unsuccessfully attempted mediation to file a Certificate of Dispute Resolution. This allows parties, with the permission of the Court, to combine a case conference and settlement conference and to skip certain preliminary steps, provided disclosure is complete and they are ready to discuss a final resolution of their case.
- As a complement to its longstanding judicial dispute resolution (JDR) options in civil and family matters, since 2018 the Court of King's Bench of Alberta offers special JDR conferences also known as "SPECs" for cases in which a trial of three weeks or more is set. In a SPEC, a Justice trained and experienced in dispute resolution leads a full-day hybrid process involving judicial mediation based on the briefs filed by the parties and information discussed at the JDR. Parties and their counsel are involved in the process. In addition to exploring resolution options, the judge provides a non-binding opinion on key issues, which can result in a binding order if the parties agree. SPECs have been a successful mechanism to resolve cases that would otherwise have gone to trial, and to reduce the duration of trials that proceed.

### *Hybrid model*

- In 2019, the Manitoba Court of King's Bench introduced a new family law case flow model to increase early resolution of family cases while reducing legal fees and conflict for families. This model prevents unnecessary litigation by requiring parties to attempt



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alternate dispute resolution before coming to court, unless contact is prohibited between them by court order. If informal resolution fails, the model promotes timely and consistent judicial intervention to resolve issues from the outset and reduce the need for trials. This occurs through an enhanced triaging process, followed as needed by a robust case conference, governed by a single judge, strict timelines and clear requirements to promote preparedness, continuity and accountability. Even before the pandemic, this model significantly reduced the number of cases going to trial, and the duration of trials that proceeded. During the pandemic, this model enabled the court to avoid backlog and delays in family matters.

- Manitoba's Department of Justice offers a single-window [Family Resolution Service](#) (FRS) to help families resolve their matters out of court or pre-trial. Families proceeding to court are supported in meeting prerequisites of the Manitoba Court of King Bench's new family case flow model. FRS supports include
  - Out of court, administrative calculation and recalculation of child support for most families
  - Enhanced administrative authority of the Maintenance Enforcement Program (e.g. Administrative Suspension of Support; Adult Child Eligibility Review)
  - Early Resolution Support delivered by Family Guides with expertise in intimate partner violence and safety planning, mediation and comprehensive co-mediation, family evaluations, court operations and navigation

Both the new Child Support Service and the enhanced Maintenance Enforcement Program reduced matters proceeding to court and ensured greater responsiveness to changing financial circumstances of families during the pandemic.

### 8. Optimizing Scheduling Practices

By structuring scheduling practices to help triage matters effectively, minimize wait times for justice system participants, and avoid wasted time for judges and court staff, judicial leaders can achieve significant efficiencies and curb the spread or impacts of undesirable practices that drain court resources – such as double-booking by counsel or last-minute settlements.

#### *Triaging Dockets*

- As part of its [northern virtual bail pilot](#), the Provincial Court of British Columbia incorporated a half-hour slot at the start of its daily bail docket to triage matters before proceeding with bail hearings. The Court also scheduled its afternoon docket to start earlier than the regular afternoon sitting of other courts, to allow defence counsel to appear while avoiding double booking.
- In response to growing volumes of cases in its family practice sessions during the pandemic, and to new virtual roll calls, the Superior Court in Gatineau, Quebec implemented a [preliminary calling of the roll](#) beginning an hour before its regular roll call, to streamline certain matters. The preliminary roll call addresses requests to add a matter to the roll or to postpone a matter, and allows unrepresented parties to register early to facilitate their virtual participation once roll call begins.



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### *Structured Overbooking of Hearing Lists*

- The Court of King’s Bench of Alberta has implemented a two-part overbooking initiative called “Have Gavel, Will Travel”. Under part one, long and short criminal and civil trials are regularly triple-booked while jury trials are double-booked, to prevent court resources from being underutilized due to last minute adjournments or settlements. Under part two, a volunteer roster identifies supernumerary judges deployable on short notice to conduct a trial in any judicial centre in the province where overbooking has not been resolved. These judges undertake not to schedule other matters during their availability period, to avoid any scheduling conflicts if they are required to deploy on short notice.

### *Trial Readiness Hearings*

- Before the pandemic, the Ontario Court of Justice implemented confirmation hearings in criminal matters, requiring parties to appear before the court eight weeks before a scheduled trial to confirm their readiness to proceed. Parties were expected to discuss the issues beforehand and be able to make binding decisions at the hearing, and the judge had the authority to decide applications on the scheduling or conduct of the trial. This initiative significantly reduced the rate of cases collapsing at trial—whether due to guilty plea, withdrawal of charges or other reason—and enabled the Court to backfill trials lists with new trials when others were cancelled. This was especially useful in setting earlier trials for in-custody matters.

In response to the pandemic, the Court implemented [COVID-19 trial readiness courts](#) as trials started to resume in July 2020. Under this adapted practice, trial readiness hearings take place by video or audioconference approximately one week before trial, to confirm readiness and assign proceeding cases to open courtrooms. Future efforts will examine how far in advance of trial these hearings should optimally occur to minimize collapse rates.

## **9. Eliminating unnecessary court appearances**

Reducing the number and frequency of court appearances to what is reasonably necessary to advance and decide a case is key to combatting delays and backlog. Each court appearance should have a meaningful and clearly articulated objective and give the parties enough time to prepare for next steps. In simple, consent-based or purely administrative processes, courts can often foster and monitor progress effectively without the parties appearing before a judge, which can reduce the burden on both the court and the parties.

- The Court of Appeal of Newfoundland and Labrador adopted Rules allowing parties to make a written request for directions or an order in various circumstances. Requests can be filed electronically using a standardized form. This practice has improved court efficiencies both before and during the pandemic.
- The Court of King’s Bench of Alberta recently instituted a written (desk) application process with online forms for consent adjournments and consent re-elections from a judge and jury to judge alone trial, and expanded its practice of pre-booking trials by email.



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- At the outset of the pandemic, the Provincial Court of Nova Scotia and its Youth Justice Court amended their [procedures](#) to enable individuals to apply for consent variations of bail release or probation conditions through electronic forms, without having to attend court in person. Safeguards are included to inform the accused person or offender of the potential consequences of breaching these conditions. Legal Aid offers urgent assistance to self-represented litigants who need to apply for such variations.
- In August 2020, in response to increased backlog in the case management court caused by the beginning of the pandemic, the Ontario Court of Justice introduced [enhanced designations of counsel](#). This regional pilot project reduced the need for routine court appearances in the early stages of a criminal case, and it has gradually expanded to other regions. By filing an enhanced designation at the intake and case management phase—namely, before the setting of a preliminary hearing or trial date—counsel can have the case adjourned for 12 weeks without a court appearance. This measure gives the parties enough time to get their case ready while reducing the volume of cases on remand and case management dockets, which in turn reduces the administrative burden on the court and the parties. To promote accountability, the parties must undertake to take the required steps to move the case forward at the earliest opportunity, and to bring the case before the court immediately if they are ready to set a hearing, if they need any preliminary issues decided, or if they reach a resolution. This process helped to reduce the caseload significantly, and to move cases forward generally.
- In August 2020, the Ontario Court of Justice also adopted a [practice direction](#) that enables defence counsel to appear on behalf of an in-custody accused for remand and adjournment requests, upon the accused's [waiver](#) of their right to appear personally. This reduces delays and administrative burdens associated with transporting prisoners to and from court or having them appear by phone or video from a correctional facility. The practice direction also allows the Court to adjourn matters on consent without the accused or their counsel appearing in court, provided the parties agree on the reason for adjournment and the next date of appearance.
- In February 2022, the Ontario Superior Court of Justice introduced automatic orders for family cases. At the start of each new case, an order is issued administratively to address preliminary matters and financial disclosure requirements without the need to attend court. These orders are intended to facilitate the early exchange of financial disclosure so that unnecessary steps are avoided.
- During the pandemic, the Supreme Court of Yukon began to hold case management conferences and pre-trial conferences by telephone. This practice has continued as pandemic-related restrictions have lifted, unless there is a contested application or a self-represented individual. Counsel appreciate the savings of time and cost. The Supreme Court of Yukon also allows self-represented accused with short scheduling criminal matters to attend by telephone.

### 10. Optimizing Case Flow Processes and Eliminating Administrative Inefficiencies

The administrative steps in place to move cases through the court system—known as case flow processes—often consume disproportionate time and resources in relation to what they seek to achieve. As a result, they can impede timely, fair and affordable access to justice. By identifying and eliminating unnecessary or duplicative processes, and simplifying or





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automating certain routine steps, courts and judicial leaders can reduce complexity, costs and delays while freeing up valuable court resources.

### *Electronic Scheduling Systems*

- Prior to the pandemic, the Court of King's Bench of Alberta implemented the King's Bench Scheduling System (KBBS)—an integrated software application that enables the court to schedule substantive matters electronically. The application interfaces with judicial email and calendars, making it easier to identify availabilities while providing judges with timely information. The application has streamlined scheduling and promoted province-wide consistency. It also enables the Court to collect statistical data on the number of hearings booked by type across the province, lead times, collapse rates, and common reasons for hearing adjournments and delays.

### *Electronic Filing, Document and Case Management Systems*

- The Court of Appeal for Saskatchewan implemented electronic filing over a decade ago. At the outset of the pandemic, this filing system, paired with a proactive rollout of virtual hearings, allowed the court to transition rapidly to an online work and hearing model. Later in the pandemic, when it was appropriate from a public health standpoint to do so, a hybrid model of hearings was adopted, where appeal hearings occurred with judges and court staff in the courtroom, and lawyers and parties were able to attend in person or remotely at their election. For Chambers and appeal management matters before a single judge, often judges and court staff participated in and supported hearings remotely, with counsel speaking to brief matters by phone or video appearance. Together, these initiatives enabled the court to avoid any backlog and delays throughout the pandemic, and to reduce travel time and costs for out-of-province counsel and litigants.
- Ontario's Ministry of the Attorney General launched comprehensive [e-filing portals](#) for the Superior Court of Justice in civil, Divisional Court and family matters in August 2020 and for small claims in 2021. To promote equitable access to this service, in-person filing remains available for those who need it, subject to applicable public health restrictions. In September 2020, the Court also launched the [CaseLines](#) platform in select regions, to enable document sharing between the judiciary and the parties relating to court cases. The use of this tool was gradually expanded to other regions. To assist self-represented litigants in using CaseLines, the Court posted tips, [frequently asked questions and video demonstrations](#) on its website, and provides telephone support as needed. These measures have helped to maintain access to court services during the pandemic. Future efforts will focus on finding an integrated system to combine e-filing and document management functionalities and promote longer-term efficiencies.
- Designed prior to the pandemic, the [Digital Court Office of Quebec](#) (Grefe numérique judiciaire du Québec) was launched in June 2020 to allow counsel and self-represented parties to file a number of documents—including documents to institute certain proceedings in civil and family matters—electronically in the Superior Court or the Court of Quebec, and to pay judicial fees online. The Digital Court Office also includes a bail deposit service in criminal matters for weekends and holidays. The bilingual Web portal



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sets out terms of use, including a detailed list of what documents can or cannot be filed electronically. The portal also includes step-by-step instructions to help users through the process, and automatically flags any missing information. Processing is automated, and includes an email confirmation of filing or payment. The system will reject any ineligible document and notify the party attempting to file it.

- Several years before the pandemic, a committee consisting of judges and court staff of the Court of Appeal of Alberta contributed to the development of a Court of Appeal Management System (CAMS).

In August 2020, the Court launched CAMS, which enables counsel and self-represented litigants to file a civil or criminal appeal electronically anytime using scroll down menus, pay filing fees, access appeal documents, and view next steps and deadlines to perfect their appeal. The system also automates data entry, flags issues requiring a review by case management officers, and generates automatic notifications to counsel or litigants at key stages of the process. In addition, the system allows court staff working remotely to access information instantly, improving service timelines and promoting flexible allocation of resources between both Calgary and Edmonton. These advancements enabled the Court to continue to operate unimpeded despite pandemic-related restrictions, and to improve access to justice.

To ensure its user-friendliness, CAMS was designed along change management principles. This included systematic review of existing processes before digitizing them, pre-launch consultations and testing, incremental rollout as a pilot project with a transition phase, development of practical tools such as a user manual with step-by-step instructions and image captions, video tutorials, reference materials, and sample documents. The Court is continuing to expand the internal operational capacities and public facing functions of CAMS to better meet the operational needs of both the court and its litigants.

- In 2004, the British Columbia Court of Appeal launched [WebCATS](#), an electronic case tracking and management system still used today. It includes both public facing and court administration-related functionalities. Parties can initiate an appeal and file or access relevant documents electronically, while court staff and judges can access details related to specific cases. In addition, WebCATS streamlines the scheduling of appeals and the creation of bail and correspondence documents, captures digital recordings of hearings, and generates a variety of disaggregated statistics on court cases, which help to produce the Court's [Annual Report](#). This pre-existing system enabled the Court to continue delivering timely access to court information and services throughout the pandemic, including remotely. Its functionalities continue to expand to meet the evolving needs of court users and staff in an increasingly digital justice system.

### *Online Scheduling*

- Since March 2019, British Columbia's Court of Appeal and Supreme Court have gradually implemented an [online booking system](#), to streamline the scheduling of appeal hearings in civil and criminal cases and certain pre-trial conference hearings. This system enables counsel to request a hearing electronically rather than having to wait in a phone queue, and reduces the administrative burden on court staff responsible for scheduling these matters. The Supreme Court is continuing to expand the online booking system to



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additional types of matters.

### *Document Filing*

- The Ontario Superior Court of Justice recently [restricted the length of materials](#) such as case conference or settlement conference briefs and affidavits to be filed with the court in family matters. This helps to focus the issues, and reduces the burden on judges in reviewing voluminous materials—a burden exacerbated by the pandemic’s forced shift to virtual processes.

### *Preventing and Managing Abusive or Vexatious Litigation*

- In the Court of King’s Bench of Alberta, a legal officer has been dedicated to managing potentially abusive and vexatious litigation across the province. This officer tracks and manages certain cases as they come in, to document findings on the merits of the case during the show-cause process and to highlight obvious instances of abuse of litigation. This early intervention has alleviated the judiciary’s workload by reducing the amount of time they spend addressing matters without merit.

### *Procedural Assistance for Litigants*

- [Family Law Saskatchewan’s web portal](#), created by the Public Legal Education Association of Saskatchewan (PLEA), provides free assistance to litigants dealing with separation and divorce. Its central feature is the Form Wizard, which uses plain language questions and explanations to help individuals generate the required court forms. This reduces the need for litigants to seek procedural assistance from court administration. The Saskatchewan Court of Appeal’s [website](#) includes a link to this portal, as well as to guidebooks for self-represented litigants.

### *Streamlining Jury Processes*

- To streamline administrative processes for the selection and summons of jurors, [New Brunswick’s Justice Services](#) implemented a tiered approach. First, they simplified their standard forms to help prospective jurors fill them out more accurately and to screen out ineligible persons more quickly and efficiently. Second, they implemented both a pre-screening process so that ineligible jurors are not required to attend court for the selection process, and a pre-hearing for discretionary exemptions. Third, they assign an individualized barcode to each prospective juror on their summons and certificate forms, to automate the calculation of juror fees based on registration information. These procedural efficiencies have led to important cost savings in juror fees and time savings for court staff.
- To minimize the number of ineligible persons attending court for jury selection in criminal matters, and the related burden on court administration, Ontario’s Ministry of the Attorney General sends out a [survey by mail](#) to approximately 700,000 Ontarians per year to canvass their eligibility for jury duty.

### *Streamlining Decision-Making Processes*

- In 2014, the Court of Appeal of Manitoba adopted its Mission Statement to deliver quality decisions in a timely fashion, and implemented a “best interests of justice” analysis to determine which decisions should be rendered on the bench or in writing.



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This approach significantly increased the ratio of decisions rendered on the bench, which provided more time for judges to write reserved decisions. This practice helped the court to maintain its timely standards of service throughout the pandemic.

### 11. Sharing or pooling of court resources

Not all levels or regions of court have the same access to resources or the same constraints to their operations, and the availability of resources in different areas can evolve quickly and frequently. Having structured processes in place to identify needs and opportunities to share existing resources can help to reduce backlog and delays and improve access to justice in underserved courts or localities, while minimizing wasted court resources.

#### *Sharing Between Levels of Court*

- Before and throughout the pandemic, the Court of Appeal of New Brunswick made some key members of staff available to the other levels of court within the province, as their schedule allowed. This has helped to ensure consistency and continuity in services such as stenography, website updates, coordination of operations and communications. During the pandemic, this sharing of resources also helped the courts pivot more quickly and effectively in an evolving context.
- Faced with restrictions on interprovincial travel and in-person gatherings, the Prince Edward Island Court of Appeal was able to pivot quickly to remote hearings by videoconference and teleconference, including for out-of-province counsel. However, since it shares a facility and bandwidth with the Supreme and Provincial Courts, the three levels of courts reached a scheduling agreement to allow each of them to operate effectively while sharing resources.

#### *Sharing Between Regions*

- The Provincial Court of British Columbia launched a [Northern Bail Pilot Project](#) in 2021 to test a centralized bail hearing model with hearings in virtual courtrooms. This pilot draws upon judges, court staff and designated legal aid counsel and prosecutors from other localities to respond to the needs of northern communities. Many of these communities are in remote locations, have Indigenous populations and are served by circuit or satellite courts that are not staffed regularly. Early information gathered as a result of the pilot project indicates that conducting bail hearings virtually avoided displacing accused persons from their communities, improved access to counsel, and allowed judges in smaller communities to complete trials without interruption by unscheduled bail hearings. Project officials continue to gather data to determine if these early trends are being sustained.
- The Superior Court of Quebec in the western region drew upon a local supernumerary judge and retired judges in the Montreal region to conduct settlement conferences virtually during the pandemic. This doubled the number of settlement conferences held, and settlement rates were similar between the new virtual model and the traditional in-person model.
- Faced with the temporary closure of several regional court centres due to COVID-19, the Court of King's Bench of Alberta pivoted to remote hearings in all judicial centres, using video-equipped courtrooms and clerks from one region, with judges hearing applications virtually from other regions. This pooling of regional resources enabled the Court to hear complex commercial applications involving multiple parties and counsel across Canada (up to



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50 or more persons) remotely at a considerable cost saving, without judges or parties having to travel.