

From: Dube, Jonathan HLTH:EX(Jonathan.Dube@gov.bc.ca)
To: Mark.Armitage@gov.bc.ca, Armitage, Mark W HLTH:EX
To: Paul.Craven@gov.bc.ca, Craven, Paul AG:EXNatalie.Barnes@gov.bc.ca, Barnes, Natalie AG:EXRoss.Alexander@gov.bc.ca, Alexander, Ross AG:EX
Subject: CONFIDENTIAL
Sent: 05/19/2022 17:42:50
Attachments: 627358 - Family Compensation Act Reforms & s. 12, s. 13
Reforming the Family Compensation Act - MoH Meeting - May 19 2022.pptx

Hello,

As discussed, AG is looking at options for *Family Compensation Act* reforms and would like to work with HLTH on assessment of impacts. AG will reach out to you to further discuss this initiative and explore where we can support this work. As also discussed, this work is confidential and we should not engage HAs or other organizations outside of the Ministry unless and until appropriate mechanisms are agreed to and put in place to maintain confidentiality (e.g. NDAs). I am also happy to attend initial meetings as needed. Thank you.

Regards,

Jonathan Dubé

Associate Deputy Minister

Ministry of Health

Health System Operations

Tel: 778-698-1513 | Mobile: 778-676-5791 | Pronouns: he, him, his

E-mail: Jonathan.Dube@gov.bc.ca

Grateful to live, learn, and work within the traditional territories of the Ləkʷəŋən and W̱SÁNEĆ peoples.

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April 22, 2022

Dear Colleagues:

Re: Family Compensation Act Reforms s. 12, s. 13

My Branch has been asked by the Attorney General to put together a Cabinet submission s. 12, s. 13 to reform the Family Compensation Act.

s. 12, s. 13

We would appreciate being directed to an appropriate staff person(s) to provide information and assistance to our staff, noting at this point the direction and the possibility of a legislative project is highly confidential.

A bit of additional background. s. 12

s. 12

s. 12, s. 13

.../2

s. 12, s. 13

Happy to provide further details, and thanks in advance.

Yours truly,

A handwritten signature in black ink, reading "Paul Craven". The signature is written in a cursive style with a long, sweeping underline.

Paul Craven
A/Assistant Deputy Minister
Justice Services Branch
Ministry of Attorney General

Cliff 627358



Ministry of
Attorney General

Justice Services Branch

Reforming the Family Compensation Act

<https://intranet.gov.bc.ca/justice/jsb>

CONFIDENTIAL

01/27/2025

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Ministry of
Attorney General

Justice Services Branch

Purpose

- ▶ The Family Compensation Act (FCA) allows surviving family members to claim only for financial losses suffered as a result of a wrongful death (where a third party has liability). Wrongful deaths of children, seniors and other non-earners are in most cases not compensable under the current FCA.
- ▶ AG primarily hearing about concerns regarding medical malpractice, now that Motor Vehicle deaths are handled under ICBC's Enhanced Care

s. 12, s. 13



Background

- ▶ The AG has committed to reforming the Family Compensation Act (FCA) this term.
 - ▶ Key criticisms: BC's FCA is unfair, unpredictable, outdated and out of line with other PTs. The court system is slow, costly and retraumatizes families.
- ▶ Key stakeholders have opposing viewpoints regarding reforms:
 - ▶ A number of organized and vocal stakeholders are actively lobbying for reforms to the FCA to broaden the scope of damage awards, including In Their Name, Trial Lawyers Association of B.C. (TLABQ), and the Canadian Bar Association (B.C. Branch).
 - ▶ Increasing awards will increase costs for tax payers and rate payers as usually government and private insurers are defendants in FCA claims

s. 12, s. 13



Ministry of
Attorney General

Justice Services Branch

Ministries Impacted

- ▶ Ministry of Health
s. 12, s. 13
- ▶ Ministry of Finance
s. 12, s. 13
- ▶ Ministry of Attorney General
s. 12, s. 13



Ministry of
Attorney General

Justice Services Branch

Next Steps

- ▶ Identify appropriate staff for information gathering phase
- ▶ Joint Decision Note to Ministers
s. 12, s. 13
- ▶ Joint Cabinet Submission/RFL s. 12, s. 13

From: Mulligan, Renee AG:EX(Renee.Mulligan@gov.bc.ca)
To: Jonathan.Dube@gov.bc.ca, Dube, Jonathan HLTH:EX
To: Natalie.Barnes@gov.bc.ca, Barnes, Natalie AG:EX
Subject: final FCA cab sub
Sent: 10/17/2022 11:03:55
Attachments: AG_RFD_FamilyCompensationAct_LPC62_CCSI - Signed.pdf

Hi Jonathan,
Here's the signed FCA cab sub, for your records.
Nice to see you again today!

All the best,
Renée

Renée Mulligan
Legal Counsel
Policy and Legislation Division
Justice Services Branch
Ministry of Attorney General
Phone: (778) 405-1711
Pronouns: she/her/hers

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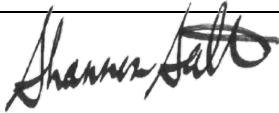
Ministry of Attorney General

Cabinet Submission Approval Form

Cabinet Submission – Family Compensation Act and Wrongful Death Reforms

CLIFF #: 632717

Contact: Renee Mulligan, (778) 405-1711

Signatures		Date
Anita Nadziejko, Director		2022-10-04
Natalie Barnes, Executive Director		2022-10-04
Paul Craven, Assistant Deputy Minister		2022-10-04
Legislation Coordinator	Rhonda Mead	2022-10-05
Deputy Attorney General		2022-10-05
Comments: October 4, 2022: Executive Director October 4, 2022: ADM October 4, 2022: Leg Coordinators October 6: DAG October 11: AG approval due		

Ministry of Attorney General
Family Compensation Act s. 12, s. 13) Reform
Speaking Points

ISSUE SUMMARY

s. 12

s. 12, s. 13

s. 12, s. 13

BACKGROUND

s. 12

s. 12, s. 13



Cabinet Submission— s. 12, s. 13

Minister: Honourable Murray Rankin, KC, Attorney General and Minister Responsible for Housing

Ministry: Attorney General

Date: 4/10/2022

Title: Family Compensation Act and Wrongful Death Reforms

EXECUTIVE SUMMARY

Issue:

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

Implications & Considerations:

- The former Attorney General publicly committed to reforming the FCA during this term of government.

s. 12



s. 12

s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

s. 12, s. 13

Recommended Option:

s. 12, s. 13



s. 12, s. 13

MAIN BODY OF SUBMISSION

Background and Context:

s. 12



s. 12

s. 12, s. 13



s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

For
additional information about wrongful death statistics in British Columbia, see Appendix
A.

s. 12, s. 13



s. 12, s. 13

s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

Policy considerations:

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s. 12

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s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



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s. 12, s. 13



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s. 12, s. 13

Indigenous Peoples:

s. 12, s. 13, s. 14

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s. 12, s. 13

s. 12, s. 13, s. 16

Options:

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s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

Treasury Board Staff Comments:

s. 12, s. 13

Impacts and outcomes:

s. 12, s. 13



Business and Economic Implications:

s. 12

Legal issues and advice:

s. 12, s. 13, s. 14

Legislation:

s. 12, s. 13

Internal Consultation:

s. 12

s. 12

s. 12, s. 13

s. 12, s. 13

s. 12

Public & Stakeholder Consultation:

s. 12, s. 13



s. 12, s. 13

Communications & Public Engagement:

s. 12, s. 13

Signatures:

Contact: Renée Mulligan
Legal Counsel
Policy and Legislation Division
Justice Services Branch
(778) 405-1711

Shannon Salter
Deputy Attorney General and Deputy
Minister Responsible for Housing

October 5, 2022
Date Signed

Honourable Murray Rankin, KC
Attorney General and
Minister Responsible for Housing

October 11, 2022
Date Signed



s. 12



s. 12

¹⁵ Source: Vital Statistics Agency, Ministry of Health



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

s. 12, s. 13



s. 12

From: Guerrero, Thomas HLTH:EX(Thomas.Guerrero@gov.bc.ca)
To: Jonathan.Dube@gov.bc.ca, Dube, Jonathan HLTH:EX
Subject: FW: s. 12, s. 13
Sent: 01/26/2023 16:14:45
Attachments: s. 12, s. 13

2023-01-26.docx

From: Amit, Dotan AG:EX <Dotan.Amit@gov.bc.ca>
Sent: January 26, 2023 3:43 PM
To: Guerrero, Thomas HLTH:EX <Thomas.Guerrero@gov.bc.ca>; Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>
Cc: Mulligan, Renee AG:EX <Renee.Mulligan@gov.bc.ca>
Subject: s. 12, s. 13

Good afternoon everyone,

Further to the discussions we've had in the last few weeks, I've attached a s. 12, s. 13

The draft is for your early review, and we'll set up a meeting in the coming weeks to discuss the submission and the proposed project in general.

In the meantime, please forward any feedback to me and I'll make sure it all gets consolidated.

Warm regards,

-Dotan

Dotan Amit (he/him)
Senior Policy Analyst
Justice Services Branch, Policy and Legislation Division
Ministry of Attorney General
(778) 698-5197
Sent from the territories of the Songhees and Esquimalt nations



s. 12, s. 13

Minister: Honourable Niki Sharma, KC

Ministry: Attorney General

Date: DD/MM/YYYY

Title: s. 12, s. 13

EXECUTIVE SUMMARY

Issue:

s. 12, s. 13

Key implications and considerations:

s. 12, s. 13



s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

- The former Attorney General has publicly committed to asking Ministry of Attorney General staff to begin assessing options to reform or replace the *Family Compensation Act* (FCA) during the government's current mandate.¹

Recommended option:

s. 12, s. 13

MAIN BODY OF SUBMISSION

Background and context:

s. 12

¹ [Proceedings In the Douglas Fir Room Committee ff Supply Estimates: Ministry Of Attorney General. Monday, June 7, 2021. Afternoon Sitting. Discussion begins at location marked 2:40pm.](#)



s. 12

s. 12, s. 13



s. 12, s. 13

The former Attorney General has publicly committed to asking Ministry of Attorney General staff to begin assessing options to reform or replace the *Family Compensation Act* (FCA) during the government's current mandate.

s. 12, s. 13

Ministry capacity limits

s. 12, s. 13



s. 12, s. 13

Policy considerations:

s. 12, s. 13



s. 12, s. 13

Consultation and Engagement

s. 12, s. 13



s. 12, s. 13

Indigenous peoples:

s. 12, s. 13

Options:

Option 1: s. 12, s. 13



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Pros

s. 12, s. 13

Cons

s. 12, s. 13

Option 2: s. 12, s. 13

Pros

s. 12, s. 13



s. 12, s. 13

Cons

s. 12, s. 13

Option 3:

Pros

s. 12, s. 13

Cons

s. 12, s. 13

Fiscal impacts

s. 12, s. 13

Table 1: Estimated Operating Costs (\$M)	Option 1	Option 2
--	----------	----------



	2023/24 FY	2024/25 FY	2023/24 FY	2024/25 FY
Existing Base Budget for Program Area*	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Existing Operating Contingencies (Approved and/or Approved-in-principle)	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Incremental Request (compared to base budget)	\$xx	\$xx	\$xx	\$xx
Revised Operating Budget if Proposal Approved	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Incremental Costs for Other Ministry	[HLTH and FIN to provide]	[HLTH and FIN to provide]	[HLTH and FIN to provide]	[HLTH and FIN to provide]

Table 2: FTEs (#)	Option 1		Option 2	
	2023/24 FY	2024/25 FY	2023/24 FY	2024/25 FY
Existing Base FTEs for Program Area	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Incremental FTE Request	s. 12, s. 13			
Revised FTEs if Proposal Approved	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]

Table 3: Estimated CRF Capital Costs (if applicable)	Option 1	Option 2	Option 1	Option 2
	2023/24 FY	2024/25 FY	2023/24 FY	2024/25 FY
Existing Base Capital Budget for Program Area	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Incremental Capital Request	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Revised Capital Budget if Proposal Approved	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]
Incremental Operating Cost if Proposal Approved (including ongoing maintenance and amortization)	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]	[CMSB to provide]

Table 3: Salaries, Operating, Capital, and Consultation Costs			
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Salaries and Benefits	FY 22 Annual Salary	FY23 Annual Salary	Benefits 25.4%	FY23/24	FY24/25	Notes / assumptions
s. 12, s. 13						
Operating, Capital, and Consultation Costs						
s. 12, s. 13						
Total Consultation Costs				s. 12, s. 13		
Total Operating Costs						
Total Costs						

Impacts and outcomes:

s. 12, s. 13

in alignment with the former Attorney

General's public commitment.

s. 12, s. 13



s. 12, s. 13

Business and economic implications:

s. 12

Legal issues and advice:

s. 12, s. 13

Legislation:

s. 12, s. 13

Internal consultations:

s. 12, s. 13

External consultations:

s. 12

Communications and public engagement:

s. 12, s. 13



s. 12, s. 13

Contact:	First Name Last Name	Barbara Carmichael, KC
Signatures:	Title	Deputy Minister
	(XXX) XXX-XXXX	
		Date Signed
		Honourable Niki Sharma, KC
		Attorney General
		Date Signed

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: Agenda and Materials - Wrongful Death Reform - Cross Ministry Working Group
Sent: 01/15/2025 13:57:39
Discussion Paper - s. 12, s. 13 Wrongful Deaths June 29.docx,
Attachments: Public Engagement Plan (003).docx, s. 12, s. 13

From: Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Sent: Friday, July 8, 2022 2:32 PM
To: Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Lorenson, Tanner AG:EX <Tanner.Lorenson@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>
Subject: Agenda and Materials - Wrongful Death Reform - Cross Ministry Working Group

Good afternoon,

I wanted to provide some documents in advance of our meeting on Monday. See agenda below.

Please find attached a presentation with information about the s. 12, s. 13 . As well as the Discussion Paper (sent previously) and Public Engagement Plan. Please send me any written comments on these by next week so I can incorporate comments into the Cab submission.

Many thanks. Have a wonderful weekend!

Melanie Tucker

3:00	Introductions – new members	All
3:15	Project Update Update from July 7 th AG Briefing s. 12, s. 13 Cabinet Submission Options	Melanie/Tanner
3:20	Discussion of: s. 12, s. 13	Melanie/Tanner

Reforming BC's Family Compensation Act

s. 12, s. 13

Purpose

To solicit feedback from impacted government ministries on proposed reforms to BC's wrongful death law. s. 12, s. 13

Policy Rationale

The death of a loved one is an incredibly difficult event, which can permanently alter the direction of a person's life. People are expected to make reasonable provision (e.g., buying property insurance, buying life insurance or saving for retirement, etc.) but wrongful deaths by definition are unexpected events which cannot be anticipated and which can have a profound impact on families. It is therefore appropriate that there are mechanisms to enable family members to receive the supports they require to adjust to the new and unsought reality and to begin to rebuild their lives.

Overview of Current Family Compensation Act

At common law, compensation is not available for the death of a person. Legislation in most common law jurisdictions overcomes this limitation by permitting family members of a person wrongfully killed to bring an action for damages against the party who caused the death. The Family Compensation Act (FCA) is BC's wrongful death legislation. A wrongful death under the FCA is one where damages would have been available had the person survived the injury caused by the wrongful act or negligence of another.

However, the FCA only allows for pecuniary or financial damages to be awarded to address financial loss suffered as a result of the wrongful death of a family member.

This includes lost financial support, funeral expenses, and medical expenses incurred on behalf of the victim. It does not allow for non-financial losses so if the decedent was a non-income earner like a child, or a low-income earner it is often not financially worthwhile to litigate, and families receive nothing in compensation for the death.

Most Canadian provinces have amended their wrongful death legislation to allow the court to award bereavement damages.

KEY CONCERNS

The FCA is often criticized for being:

- **Out-dated**, bare-boned legislation, largely the same as the original statute upon which it was built, Lord Campbell's Act (1846).
- **Out-of-step with other jurisdictions** across Canada, which have introduced amendments to broaden eligible claimants and to add non-financial damages (with the exception of the Yukon and NWT).
- **Unpredictable** as courts have struggled with interpreting the FCA, and have attempted to fill in the gaps left by the legislation – setting standards for damage awards, and considering alternative family arrangements on an ad hoc basis. This has resulted in a large body of case law. As a result, the average person cannot look at the present legislation and determine with any degree of certainty what to expect.
- **Fundamentally unfair** in that it only creates a right of compensation for income earners who have dependents. In cases where pecuniary damages are awarded, the families of high-income earners receive higher settlement awards under the current tort system. Conversely, the families of low-income earners receive lower dollar value settlements. As many defendants are entitled to government indemnity or have errors and omissions insurance, this means taxpayers and insurance policy holders are funding large settlements to wealthy families who could arguably have greater means and financial stability to recover than lower income families, who receive lower settlement awards or no award if it is not financially worthwhile to litigate.
- **Exclusionary** because not everyone who may be financially dependent on the deceased is covered by the FCA. Claimants are limited to “spouse, parent or child of the person whose death has been caused.” For example, siblings are not currently included as eligible claimants in BC although they are eligible in

other jurisdictions such as Manitoba, Ontario and Quebec. Persons who receive support payments or any other person dependent on the deceased for financial support are also not currently included as claimants.

Model Overview

s. 12, s. 13

Terminology

s. 12, s. 13

GENERAL PRINCIPLES

s. 12, s. 13

s. 12, s. 13

Key Elements

After a wrongful death, families want accountability from the wrongdoer, information about how their loved died for the purposes of closure, change to the system so the same thing doesn't happen to another family, and compensation for their loss.

s. 12, s. 13

s. 12, s. 13

Current FCA	
Children	
This includes people for whom the deceased stood in the role of parent as well as stepchildren, adopted children, grandchildren and illegitimate children.	
Parents	
This includes grandparents and stepparents.	
Spouses	
This includes marriage-like relationships including same-sex couples.	

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

Process

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

Indigenous Considerations

The *Declaration on the Rights of Indigenous Peoples Act* (the “Declaration Act”) requires that “the government must take all measures necessary to ensure the laws of British Columbia are consistent with” the UN Declaration on the Rights of Indigenous Peoples.

s. 12, s. 13

Cost and Funding

s. 12, s. 13

Risks and Challenges

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

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s. 12, s. 13

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s. 12, s. 13

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s. 12, s. 13

DRAFT

Public Engagement Plan Wrongful Death Legislative Reform

A two-part engagement strategy is being proposed to support the first phase of the legislative reform project for the Family Compensation Act. The first is described in this document. A second phase will commence in the fall of 2022 and into 2023 once cabinet direction has been received.

Part 1 - Summer/Fall 2022 (Cabinet Submission)

Part 2 - Winter - Summer 2023 (Request for Legislation and Bill Drafting)

1. Public Survey Engagement (open to the public)

Summer 2022

Description

A 15-minute online survey open to the public, but especially geared towards requesting feedback from Indigenous peoples and communities, people with lived experience and organizations working within this area.

Why is this important:

- To understand the public's priorities and preferences as they relate to the province's legal framework for wrongful death.
- To ground truth input we've received through correspondence and research.
- To develop public support to counter-balance to anticipated criticisms from within the legal community who's livelihoods may be negatively affected.

Planned Activities

- Public facing survey to ask for high level information on:
 - o Demographic Information (gender, age, family status)

- o Ranking/importance of key design features

Resources needed

- Technology support – either EngageBC or an out-of-the box product such as “Survey Monkey”
- GCPE/GDX to support to post/share and promote the survey

Part 2 - Winter- Summer 2023

2. Virtual Engagement Sessions with key Indigenous Partners (by invitation only)

Winter/Spring 2023

Description

Virtual engagement sessions with Indigenous Peoples and partners to brief on the project, request feedback on proposed approach and high-level input on priorities.

*Note: Legal opinion on the provinces potential obligations in this area is in progress. May need to add engagement with all 204 First Nations if the province has an obligation to consult.

Purpose:

- To assist in meeting government’s obligations to Indigenous Peoples and partners early in the project
- To share proactively about the project early and at the beginning phases of the work
- To solicit feedback on engagement approach in order to ensure the work will meet the unique needs of Indigenous Peoples

Why is this important:

- Opportunity to provide an overview of current legislative framework, issues and challenges
- Open-ended opportunity for sharing of lived experience and priorities/preferences for reform in this area.
- Results will inform shaping early design elements

Planned Activities

- Series of hour-long virtual sessions via TEAMS

Resources needed

- No new resources needed unless advice from Indigenous leadership strongly recommends engagement funding is required such as was provided for the anti-racism legislative reform project.
- Will need to communicate available support resources available recognizing the sensitive and potentially triggering subject matter

3. Virtual Engagement Sessions for stakeholder organizations and people with lived experience (by invitation only)

Winter/Spring 2023

Description of Activities

Hour long virtual meetings via TEAMS requesting feedback from key partners on challenges, priorities and design elements of the wrongful death legislative framework. Ideally these would be small group sessions with a neutral facilitator.

Purpose:

- To socialize some of the anticipated reform elements with key stakeholder groups and families with lived experience.
- Opportunity for families to share their stories with government staff who are directly involved in the legislative reform project.
- Results will inform shaping early design elements

Planned Activities

- Series of hour-long virtual sessions via TEAMS
- Will need to communicate support resources available recognizing the sensitive and potentially triggering subject matter

Resources needed

- No new resources needed

Group 1 - Community and Social Sector Organization Session

Group 2 - Individuals with Lived Experience Session

Group 3 - Insurance and Legal Community Engagement Sessions

Appendices

1. Online Survey Questionnaire
2. Stakeholder Lists

ONLINE FEEDBACK SURVEY

Introductory Summary Information

The Family Compensation Act (FCA) is BC's wrongful death legislation. It allows eligible family members to sue for financial damages when the death of their loved one is caused by the wrongful act, neglect or default of another. A lawsuit can only be started under the FCA if the deceased person, had they not died, could have sued the wrongdoer for damages resulting from the injury. In addition, damages are awarded to address financial loss suffered as a result of the death of a family member. The goal is to put the claimant back in the same position financially as they would have been had their family member not died. The FCA does not address emotional loss or damage, such as pain and suffering and loss of enjoyment of life. In some cases where the deceased was not providing financial support, such as in the case of minor children, family members cannot seek compensation because it is not financially viable to do so. Other criticisms are that eligible claimants which currently only includes spouse, parent or child should be expanded, and that there should be alignment between non-fatal and fatal injury compensation.

Government is interested in learning about the public's priorities and preferences to redesign BC's wrongful death legislative framework.

Demographic Information

1. What is your age range?
Under 18/19-45/45-65/65+ / prefer not to answer
2. What is your family status?
Married/Common law/ Single/ Widowed/ prefer not to answer
3. Are you currently residing in BC?
Yes/No
4. Have you personally experienced the wrongful death of a family member?
Yes/No/prefer not to answer

Key Preferences and Priorities for Wrongful Death Reform

5. What are the most important issues to address when reforming the Family Compensation Act?

Please rank your top issues (up to a max of three).

- Compensation levels are unpredictable under the current FCA
- Court awarded compensation levels are too low
- Time to settlement is too long
- The court process is too expensive
- The court process is too complex
- The law is unfair because it is not financially worthwhile for some families to claim damages under the current FCA
- Lack of accountability for the wrongdoer
- Lack of fairness as compensation is based on income
- Other:

Please state whether you agree or disagree with the following.

Scale:

Strongly Agree

Agree

Neither agree or disagree

Disagree

Strongly Disagree

Unsure/Don't know/Prefer not to answer

6. Reforms should expand the list of eligible family claimants.

7. The amount of compensation that surviving family members can claim should be increased.

s. 12, s. 13

Community and Social Sector Stakeholder List

- Disability Community
 - BC Coalition of People with Disabilities
 - Vancouver Island Head Injury Society
- Community Organizations
 - Mothers Against Drunk Driving (MADD)
 - Parents Coalition of BC
 - Parent and Child Advocacy Coalition
- Counsellors
 - BC Assn. of Specialized Victim Assistance & Counselling Programs
 - BC Council for Families
 - BC Art Therapy Assn.
 - BC Assn. of Clinical Counsellors
 - BC Assn. for Marriage and Family Therapy
- Funeral Directors
 - The Funeral Services Assn. of BC
 - Cemetery and Crematorium Assn. of BC
- Psychologists
 - BC Psychological Assn.
 - College of Psychologists of BC

Insurance and Legal Community

- Coalition Against No-Fault in BC
- ICBC
- Trial Lawyers Association of BC
- Canadian Medical Protection Association (CMPA)
- Law Society of BC

ⁱ *Family Compensation Act*, R.S.B.C. 1996, c. 126.

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: s. 12
Sent: 01/15/2025 13:59:50
Attachments: AG_RFD_FamilyCompensationAct_LPC62_CCSI - Signed.pdf

From: Mulligan, Renee AG:EX <Renee.Mulligan@gov.bc.ca>
Sent: Monday, December 5, 2022 1:30 PM
To: Thiessen-Wale, Katherine HLTH:EX <Katherine.ThiessenWale@gov.bc.ca>; Guerrero, Thomas HLTH:EX <Thomas.Guerrero@gov.bc.ca>; Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>
Cc: Amit, Dotan AG:EX <Dotan.Amit@gov.bc.ca>
Subject: s. 12

Thanks again for taking the time to speak with us today. Here's the s. 12
As I mentioned, s. 12

Thanks,
Renee

Renée Mulligan
Legal Counsel
Policy and Legislation Division
Justice Services Branch
Ministry of Attorney General
Phone: (778) 405-1711
Pronouns: she/her/hers

Upcoming leave: December 9, 2022 – January 6, 2023

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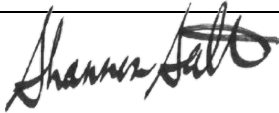
Ministry of Attorney General

Cabinet Submission Approval Form

Cabinet Submission – Family Compensation Act and Wrongful Death Reforms

CLIFF #: 632717

Contact: Renee Mulligan, (778) 405-1711

Signatures		Date
Anita Nadziejko, Director		2022-10-04
Natalie Barnes, Executive Director		2022-10-04
Paul Craven, Assistant Deputy Minister		2022-10-04
Legislation Coordinator	Rhonda Mead	2022-10-05
Deputy Attorney General		2022-10-05
Comments: October 4, 2022: Executive Director October 4, 2022: ADM October 4, 2022: Leg Coordinators October 6: DAG October 11: AG approval due		

Ministry of Attorney General
Family Compensation Act **s. 12, s. 13** **Reform**
Speaking Points

ISSUE SUMMARY

s. 12

s. 12, s. 13

s. 12, s. 13

BACKGROUND

s. 12

s. 12, s. 13



Cabinet Submission— s. 12, s. 13

Minister: Honourable Murray Rankin, KC, Attorney General and Minister Responsible for Housing

Ministry: Attorney General

Date: 4/10/2022

Title: Family Compensation Act and Wrongful Death Reforms

EXECUTIVE SUMMARY

Issue:

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

Implications & Considerations:

- The former Attorney General publicly committed to reforming the FCA during this term of government.

s. 12



s. 12

s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

s. 12, s. 13

Recommended Option:

s. 12, s. 13



s. 12, s. 13

MAIN BODY OF SUBMISSION

Background and Context:

s. 12



s. 12

s. 12, s. 13



s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

. For

additional information about wrongful death statistics in British Columbia, see Appendix A.

s. 12, s. 13



s. 12, s. 13

s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

s. 12



s. 12, s. 13

Policy considerations:

s. 12, s. 13

s. 12

s. 12

s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

Indigenous Peoples:

s. 12, s. 13, s. 14

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13, s. 16

Options:

s. 12, s. 13



s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

Treasury Board Staff Comments:

s. 12, s. 13

Impacts and outcomes:

s. 12, s. 13



Business and Economic Implications:

s. 12

Legal issues and advice:

s. 12, s. 13, s. 14

Legislation:

s. 12, s. 13

Internal Consultation:

s. 12

s. 12

s. 12, s. 13

s. 12, s. 13

s. 12

Public & Stakeholder Consultation:

s. 12, s. 13



s. 12, s. 13

Communications & Public Engagement:

s. 12, s. 13

Signatures:

Contact: Renée Mulligan
Legal Counsel
Policy and Legislation Division
Justice Services Branch
(778) 405-1711

Shannon Salter
Deputy Attorney General and Deputy
Minister Responsible for Housing

October 5, 2022
Date Signed

Honourable Murray Rankin, KC
Attorney General and
Minister Responsible for Housing

October 11, 2022
Date Signed



s. 12



s. 12

¹⁵ Source: Vital Statistics Agency, Ministry of Health



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

s. 12, s. 13



s. 12

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: Update on FCA cabinet submission
Sent: 01/15/2025 14:01:17

From: Mulligan, Renee AG:EX <Renee.Mulligan@gov.bc.ca>
Sent: Thursday, December 1, 2022 9:14 AM
To: Thiessen-Wale, Katherine HLTH:EX <Katherine.ThiessenWale@gov.bc.ca>; Guerrero, Thomas HLTH:EX <Thomas.Guerrero@gov.bc.ca>; Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>
Cc: Amit, Dotan AG:EX <Dotan.Amit@gov.bc.ca>
Subject: Update on FCA cabinet submission

Hi everyone,

I have taken over the work being led by Melanie Tucker, as she has moved to another office. I wanted to reach out and provide you with an update on the work that has occurred and the next steps on reforms to the *Family Compensation Act*. If I have missed someone, or if you are on this email chain and no longer need to be included, please feel free to forward this to the appropriate person or let me know and I can do it.

Work has been underway to prepare a cabinet submission to request direction [s. 12, s. 13](#)

You may recall that previously there were meetings to discuss this project, [s. 12, s. 13](#)

I'll be sending out a meeting invite for next week to discuss this with you in more detail.

Thanks very much,
Renée

Renée Mulligan
Legal Counsel
Policy and Legislation Division
Justice Services Branch
Ministry of Attorney General
Phone: (778) 405-1711
Pronouns: she/her/hers

Upcoming leave: December 9, 2022 – January 6, 2023

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From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: CONFIDENTIAL - Family Compensation Act Review
Sent: 01/15/2025 14:02:19
Attachments: 627358 - Family Compensation Act Reforms & s. 12, s. 13
Reforming the Family Compensation Act - MoH Meeting - May 19 2022.pptx

From: Armitage, Mark W HLTH:EX <Mark.Armitage@gov.bc.ca>
Sent: Sunday, June 5, 2022 7:52 AM
To: Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>
Cc: Brown, Kevin HLTH:EX <Kevin.Brown@gov.bc.ca>
Subject: CONFIDENTIAL - Family Compensation Act Review

Ryan and Zac,

The AG is looking at options for Family Compensation Act reforms and would like to work with HLTH on assessment of impacts – see attachments.

I met with the AG last week and provided your names. The AG will reach out to you to further discuss this initiative and explore how physician and nurse liability insurance works and is funded.

Please note, this work is confidential. We should not engage HAs or other organizations outside of the Ministry unless and until appropriate mechanisms are agreed to and put in place to maintain confidentiality (e.g. NDAs).

If you have any questions please let me know.

Thank you

Mark

W. Mark A. Armitage MPA BSW
ADM | Health Sector Workforce and Beneficiary Services
Ministry of Health | 1515 Blanshard St., Victoria, B.C.
Phone (250) 952-3519



April 22, 2022

Dear Colleagues:

Re: Family Compensation Act Reforms s. 12, s. 13

My Branch has been asked by the Attorney General to put together a Cabinet submission s. 12, s. 13 to reform the Family Compensation Act.

s. 12, s. 13

We would appreciate being directed to an appropriate staff person(s) to provide information and assistance to our staff, noting at this point the direction and the possibility of a legislative project is highly confidential.

A bit of additional background. s. 12
s. 12

s. 12, s. 13

.../2

s. 12, s. 13

Happy to provide further details, and thanks in advance.

Yours truly,

A handwritten signature in black ink, reading "Paul Craven". The signature is written in a cursive, flowing style.

Paul Craven
A/Assistant Deputy Minister
Justice Services Branch
Ministry of Attorney General

Cliff 627358



BRITISH
COLUMBIA

Ministry of
Attorney General

Justice Services Branch



Reforming the Family Compensation Act

<https://intranet.gov.bc.ca/justice/jsb>

CONFIDENTIAL

01/16/2025

1



Ministry of
Attorney General

Justice Services Branch

Purpose

- ▶ The Family Compensation Act (FCA) allows surviving family members to claim only for financial losses suffered as a result of a wrongful death (where a third party has liability). Wrongful deaths of children, seniors and other non-earners are in most cases not compensable under the current FCA.
 - ▶ AG primarily hearing about concerns regarding medical malpractice, now that Motor Vehicle deaths are handled under ICBC's Enhanced Care

s. 12, s. 13



Background

- ▶ The AG has committed to reforming the Family Compensation Act (FCA) this term.
 - ▶ Key criticisms: BC's FCA is unfair, unpredictable, outdated and out of line with other PTs. The court system is slow, costly and retraumatizes families.
- ▶ Key stakeholders have opposing viewpoints regarding reforms:
 - ▶ A number of organized and vocal stakeholders are actively lobbying for reforms to the FCA to broaden the scope of damage awards, including In Their Name, Trial Lawyers Association of B.C. (TLABQ), and the Canadian Bar Association (B.C. Branch).
 - ▶ Increasing awards will increase costs for tax payers and rate payers as usually government and private insurers are defendants in FCA claims

s. 12, s. 13



BRITISH
COLUMBIA

Ministry of
Attorney General

Justice Services Branch

Ministries Impacted

s. 12, s. 13

- ▶ Ministry of Finance

s. 12, s. 13

- ▶ Ministry of Attorney General

s. 12, s. 13



Ministry of
Attorney General

Justice Services Branch

Next Steps

- ▶ Identify appropriate staff for information gathering phase
- ▶ Joint Decision Note to Ministers
s. 12, s. 13
- ▶ Joint Cabinet Submission/RFL s. 12, s. 13

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: Wrongful Death Reform - Cross Ministry Working Group
Sent: 01/15/2025 14:09:26
Attachments: 02 Request for Decision - FCA RM feedback.docx

From: Murray, Ryan HLTH:EX
Sent: Wednesday, August 10, 2022 11:51 AM
To: Lorenson, Tanner AG:EX <Tanner.Lorenson@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>; Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Subject: RE: Wrongful Death Reform - Cross Ministry Working Group

Hi Tanner, just some edits and suggestions mostly around CMPA.

Thanks
Ryan

Ryan Murray BA, MBA
Director, Physician Partnerships
Health Sector Workforce and Beneficiary Services Division | Ministry of Health
PO Box 9649 STN PROV GOVT | Victoria BC V8W 9P4
Ph: 250 952-1262 | Email: ryan.murray@gov.bc.ca |

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From: Lorenson, Tanner AG:EX <Tanner.Lorenson@gov.bc.ca>
Sent: August 10, 2022 9:40 AM
To: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>
Subject: RE: Wrongful Death Reform - Cross Ministry Working Group

Hello all,

I just wanted to send a follow-up email regarding the request for feedback on the FCA cabinet submission. With our timelines in mind, it would be wonderful if you could send any feedback or comments by **12pm on Friday, August 12**, so that they can be fully incorporated.

Thank you again,
Tanner

—

Tanner Lorenson (she/her)
Law Co-op Student, Policy and Legislation Division
Justice Services Branch | Ministry of Attorney General
Office Phone: (778) 974-3727 | tanner.lorenson@gov.bc.ca

From: Lorenson, Tanner AG:EX
Sent: Tuesday, August 2, 2022 12:46 PM
To: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>
Subject: RE: Wrongful Death Reform - Cross Ministry Working Group

Hello all,

As Anita is on leave, it would be great if you could also CC me on any feedback or comments on the draft cabinet submission so that I can continue the progress on the document.

Thank you again for your continued work on this project.

Best,
Tanner
—

Tanner Lorenson (she/her)
Law Co-op Student, Policy and Legislation Division
Justice Services Branch | Ministry of Attorney General
Office Phone: (778) 974-3727 | tanner.lorenson@gov.bc.ca

From: Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Sent: Monday, July 25, 2022 4:51 PM
To: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Lorenson, Tanner AG:EX <Tanner.Lorenson@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>
Subject: Wrongful Death Reform - Cross Ministry Working Group

Good afternoon,

Please find attached the first draft of a proposed cabinet submission for wrongful death reforms s. 12, s. 13

As you will see there is more work to be done, but I'd like to get your comments and feedback before the document is finalized anyway so it can be incorporated.

Please do not circulate this document beyond this group at this stage.

Thanks so much for your time, efforts and work so far! I will be watching from Transportation to see how it progresses.

All comments and feedback after this week should be sent to Anita Nadziejko.

Cheers,

Melanie Tucker



Cabinet Submission— s. 12, s. 13

This Template Last Updated: November 15, 2021

Minister: Honourable David Eby, QC, Attorney General and Minister Responsible for Housing

Ministry: Attorney General

Date: 31/08/2022

Title: Family Compensation Act and Wrongful Death Reforms

EXECUTIVE SUMMARY

Issue:

s. 12

s. 12, s. 13

This cabinet submission seeks policy approval to s. 12, s. 13



s. 12, s. 13

Key implications and considerations:

- The AG has publicly committed to reforming the FCA during this term of government. The FCA is tentatively on the Fall 2023 legislative agenda.

s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

Recommended option:

Option 1 – s. 12, s. 13

s. 12, s. 13

Background and context:

s. 12

s. 12, s. 13



s. 12

- One of the largest barriers to having the legislation proceed during previous attempts was s. 12, s. 13

s. 12

s. 12 s. 12, s. 13

s. 12



Key Criticisms of FCA

s. 12

s. 12, s. 13

s. 12

Data Challenges



s. 12



s. 12

s. 12, s. 13

s. 12

⁴ Source: Vital Statistics Agency, Ministry of Health

s. 12



s. 12, s. 13

s. 12, s. 13

s. 12

s. 12

s. 12

s. 12, s. 13

s. 12

s. 12, s. 13



s. 12

s. 12, s. 13



s. 12, s. 13

Policy considerations:

s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



Linkages with key Government priorities

s. 12, s. 13

[Add Gender-Based Analysis Plus (GBA+)]

Indigenous peoples:

s. 12, s. 13, s. 14

s. 12, s. 13, s. 14
Public engagement and consultation has not yet take place.
s. 12, s. 13



Options:

Option 1 (Recommended) s. 12, s. 13

Commented [TMA6]: Requested assistance with this from Eden Landero

Advantages
s. 12, s. 13



s. 12, s. 13

Disadvantages

s. 12, s. 13

Option 2 – s. 12, s. 13

Advantages

s. 12, s. 13

Disadvantages

s. 12, s. 13



s. 12, s. 13

Option 3 – s. 12, s. 13

Advantages

s. 12, s. 13

Disadvantages

s. 12, s. 13

Fiscal impacts

s. 12, s. 13

s. 12, s. 13

Treasury Board Staff comments

Treasury Board Staff (TBS) comments must be included verbatim. The comments should indicate whether TBS agrees with the characterization of fiscal impacts and whether the proposal requires Treasury Board review. If the comments are lengthy, they may be included as an appendix.



You must provide a draft and final copy of your Cabinet submission to your ministry's Treasury Board Analyst at the same time as provided to Cabinet Operations.

Impacts and outcomes:

Commented [TMA9]: Not yet started.

Discuss the expected short, medium and long-term impacts and outcomes of the recommended option and how success will be measured. Include the timeframe and method(s) by which the ministry will evaluate whether the initiative has achieved the intended outcomes.

The Ministry of Finance has developed a [Logic Model Toolkit](#) to help facilitate the completion of this section. Ministries may also wish to include an appendix with a logic model that clearly shows the relationship between key inputs, activities, outputs, and outcomes.

Business and economic implications:

Summarize the implications of the recommended policy change for businesses and the economy. If business and economic implications are not quantifiable, include a qualitative assessment. See the [Business and Economic Implications Framework \(BEIF\)](#) for more information and resources.

Attach the BEIF worksheet to the three week draft submission submitted to Cabinet Operations, and provide a copy of the worksheet to the BEIF office at BEIF@gov.bc.ca.

Legal issues and advice:

Briefly outline key legal issue(s) that are relevant to this submission, including any legal advice received from the Legal Services Branch.

Legal issues and advice respecting Indigenous rights and interests should be included under the Indigenous Peoples section above.

Ensure that your LSB advising solicitor, or the Assistant Deputy Attorney General, agrees with the summary of legal advice (if any) set out in this submission.

Legislation:

s. 12, s. 13



s. 12, s. 13

Internal consultations:

s. 12

s. 12

s. 12, s. 13

s. 12

External consultations:

An external engagement plan has been developed which includes public consultation and engagement with stakeholders, including affected families, community organizations and the legal community.

Impacted stakeholders include: the Disability Community (BC Coalition of People with Disabilities, Vancouver Island Head Injury Society) Community Organizations (Mothers Against Drunk Driving, Parents Coalition of BC, Parent and Child Advocacy Coalition), Counsellors and Psychologists (BC Assn. of Specialized Victim Assistance & Counselling Programs, BC Council for Families, BC Art Therapy Association, BC Association of Clinical Counsellors, BC Association for Marriage and Family Therapy, BC Psychological Association, College of Psychologists of BC), Funeral and Burial Sector (Funeral Services Association of BC, Cemetery and Crematorium Association of BC), Insurance and Legal Community (Coalition Against No-Fault in BC, Trial Lawyers

Commented [TMA10]: Ministry of Health:
Health Sector Workforce and Beneficiary Services Division:
Zach Matiescheyn (Nursing Policy Secretariat)
Ryan Murray (Physicians Services Branch)
Corporate Issues Client Relations Division
Susan Shust (FOI and Litigation)
Jordan Will (Patient Care and Quality Review Board Secretariat)
Leah Smith (Hospital Services Branch, Priority Initiatives and Quality)

Ministry of Finance, Risk Management Branch:
Kim Oldham (Director)
Grant Warrington (Legal Counsel, Claims Examiner)

Commented [TMA11]: Saved in the Teams folder in the engagement folder.

As discussed - additional consideration will need to be given to the approach used in engagement with the public. See email from Preet saved in the teams folder.



Association of BC, Canadian Medical Protection Association, Law Society of BC,
[College of Physicians & Surgeons of BC, Doctors of BC.](#)

Communications and public engagement:

If your Director of Communications determines a full communications plan is required,
complete the Communications Plan template (Appendix A) attached to this submission.

Commented [TMA12]: Request for plan has been submitted to Preet Grewal. She is working on this with a mid August deadline and has requested the cab sub.

Signatures:

Contact:	First Name Last Name	Shannon Salter
	Title	Deputy Attorney General and Deputy
	(XXX) XXX-XXXX	Minister Responsible for Housing
		Date Signed
		Honourable David Eby, QC
		Attorney General and Minister
		Responsible for Housing
		Date Signed



Appendix A: Communications Plan Template

Communications plan

Ministry of < Name >

Cabinet Submission

Item: e.g. Wildfire announcement

Summary:

Type:	e.g. Event / Announcement / News Release / Technical Briefing / Other		
Item summary:	< Brief description of the <i>communications</i> aspect of the item >		
Date:	Month / Day / Year	Venue / location:	
Primary:	< e.g. Premier >	Featuring:	< Other Ministers/MLAs > < Other elected officials > < Stakeholders >
Audiences:			
Message frame:	< List key messages >		
Key validating facts:	< List any facts that support the key messages >		
Potential issues/ challenges:	< List potential resulting issues with announcement >		

Media plan – stakeholders:



Approvals required:	< TB / Cabinet / PO / Other approvals outstanding >		
Stakeholders:	< Provide list of stakeholders >		
Notify stakeholders:	☐ Before announcement	☐ After announcement	
	☐	☐	
Local NR opportunity:	< List MLAs who could do a riding-specific NR >		

Media plan – event overview:

Complete only if this item involves an event.

Has an Event Plan been completed?:	☐ Yes	☐ No
Has Event Services been contacted?:	☐ Yes	☐ No
Event summary:	< Brief summary of event details (where, when, etc.) >	

Media plan – announcement:

Announcement details:	< Brief description of how the announcement, event, etc. will play out >
------------------------------	--



Specific media engagement:	< Regional media, one-on-one's, etc. >
Digital release:	< What is being done concurrently on social media? >
Ethnic media plan:	< Focus on Asian and South Asian communities >

Media plan – follow up:

Sustaining activities:	< Recommended follow-up activities, in brief, by Ministers or MLAs >
Digital follow up:	< Any ongoing social media activities? >
Consultation/ engagement:	< Does this announcement require a consultation process? If so, has this been discussed/approved by the GCPE Public Consultation Unit? >

Authorization:

Director of Communications Ministry of < Name >	Deputy Minister (Ministry)
--	----------------------------------

Month Day, Year



Appendix 2 – s. 12

s. 12

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: Wrongful Death Working Group on July 4
Sent: 01/15/2025 14:11:07
Attachments: Discussion Paper - s. 12, s. 13

docx

From: Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Sent: Wednesday, June 29, 2022 4:33 PM
To: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Cc: Lorensen, Tanner AG:EX <Tanner.Lorensen@gov.bc.ca>
Subject: RE: Wrongful Death Working Group on July 4

Thanks so much for the update Ryan.

I've attached the discussion paper as promised, which lays out the proposed model at a high level and which I was hoping to solicit your feedback on this coming Monday

I've managed to connect with RMB this week (finally) s. 12, s. 13 Grant Warrington (Claims Examiner and Legal Counsel) will be attending on Monday so Zack and Ross, you'll have a chance to hear from him as well. He seems to get assigned most medical malpractice claims currently and has a wealth of experience in this area.

For the purposes of Monday's meeting I thought the best use of our time would be to discuss the model in the concept paper and go over the Engagement Plan (also attached).

Ryan – Please pass along any comments you have by email if and when you have a chance to review. Alternatively, we can schedule another time to connect once you're back.

Wishing you a very happy long weekend!

Melanie Tucker

From: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>
Sent: Wednesday, June 29, 2022 3:40 PM
To: Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Subject: RE: Wrongful Death Working Group on July 4

Unless pulled away unexpectedly, I intend to attend the meetings on those dates.

z

From: Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>
Sent: June 29, 2022 3:37 PM
To: Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Cc: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>
Subject: Wrongful Death Working Group on July 4

Hi Melanie, FYI – I won't be at the working group meeting on July 4 or July 11 as will be on vacation.

I've cc'd Zach to let him know, and I don't know if he is available on those dates and will be at the meetings.

Thanks

Ryan

Ryan Murray BA, MBA
Director, Physician Partnerships
Health Sector Workforce and Beneficiary Services Division | Ministry of Health
PO Box 9649 STN PROV GOVT | Victoria BC V8W 9P4
Ph: 250 952-1262 | Email: ryan.murray@gov.bc.ca |

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Reforming BC's Family Compensation Act

s. 12, s. 13

Purpose

To solicit feedback from impacted government ministries on proposed reforms to BC's wrongful death law. s. 12, s. 13

Policy Rationale

The death of a loved one is an incredibly difficult event, which can permanently alter the direction of a person's life. People are expected to make reasonable provision (e.g., buying property insurance, buying life insurance or saving for retirement, etc.) but wrongful deaths by definition are unexpected events which cannot be anticipated and which can have a profound impact on families. It is therefore appropriate that there are mechanisms to enable family members to receive the supports they require to adjust to the new and unsought reality and to begin to rebuild their lives.

Overview of Current Family Compensation Act

At common law, compensation is not available for the death of a person. Legislation in most common law jurisdictions overcomes this limitation by permitting family members of a person wrongfully killed to bring an action for damages against the party who caused the death. The Family Compensation Act (FCA) is BC's wrongful death legislation. A wrongful death under the FCA is one where damages would have been available had the person survived the injury caused by the wrongful act or negligence of another.

However, the FCA only allows for pecuniary or financial damages to be awarded to address financial loss suffered as a result of the wrongful death of a family member. This includes lost financial support, funeral expenses, and medical expenses incurred on behalf of the victim. It does not allow for non-financial losses so if the decedent was a non-income earner like a child, or a low-income earner it is often not financially worthwhile to litigate, and families receive nothing in compensation for the death.

Most Canadian provinces have amended their wrongful death legislation to allow the court to award bereavement damages.

KEY CONCERNS

The FCA is often criticized for being:

- **Out-dated**, bare-boned legislation, largely the same as the original statute upon which it was built, Lord Campbell's Act (1846).
- **Out-of-step with other jurisdictions** across Canada, which have introduced amendments to broaden eligible claimants and to add non-financial damages (with the exception of the Yukon and NWT).
- **Unpredictable** as courts have struggled with interpreting the FCA, and have attempted to fill in the gaps left by the legislation – setting standards for damage awards, and considering alternative family arrangements on an ad hoc basis. This has resulted in a large body of case law. As a result, the average person cannot look at the present legislation and determine with any degree of certainty what to expect.
- **Fundamentally unfair** in that it only creates a right of compensation for income earners who have dependents. In cases where pecuniary damages are awarded, the families of high-income earners receive higher settlement awards under the current tort system. Conversely, the families of low-income earners receive lower dollar value settlements. As many defendants are entitled to government indemnity or have errors and omissions insurance, this means taxpayers and insurance policy holders are funding large settlements to

wealthy families who could arguably have greater means and financial stability to recover than lower income families, who receive lower settlement awards or no award if it is not financially worthwhile to litigate.

- **Exclusionary** because not everyone who may be financially dependent on the deceased is covered by the FCA. Claimants are limited to “spouse, parent or child of the person whose death has been caused.” For example, siblings are not currently included as eligible claimants in BC although they are eligible in other jurisdictions such as Manitoba, Ontario and Quebec. Persons who receive support payments or any other person dependent on the deceased for financial support are also not currently included as claimants.

Model Overview

s. 12, s. 13

Terminology

s. 12, s. 13

s. 12, s. 13

GENERAL PRINCIPLES

s. 12, s. 13

s. 12, s. 13

Key Elements

After a wrongful death, families want accountability from the wrongdoer, information about how their loved died for the purposes of closure, change to the system so the same thing doesn't happen to another family, and compensation for their loss.

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

Current FCA

s. 12, s. 13

Children

This includes people for whom the deceased stood in the role of parent as well as stepchildren, adopted children, grandchildren and illegitimate children.

Parents This includes grandparents and stepparents.	s. 12, s. 13
Spouses This includes marriage-like relationships including same-sex couples.	

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

Process

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

Indigenous Considerations

The *Declaration on the Rights of Indigenous Peoples Act* (the “Declaration Act”) requires that “the government must take all measures necessary to ensure the laws of British Columbia are consistent with” the UN Declaration on the Rights of Indigenous Peoples. s. 12, s. 13

Cost and Funding

s. 12, s. 13

s. 12, s. 13

Risks and Challenges

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

s. 12, s. 13

DRAFT

s. 12, s. 13

s. 12, s. 13

DRAFT

From: Rathy, Sophia HLTH:EX(Sophia.Rathy@gov.bc.ca)
To: Sophia.Rathy@gov.bc.ca, Rathy, Sophia HLTH:EX
Subject: FW: Wrongful Death Reform - Cross Ministry Working Group
Sent: 01/15/2025 15:00:50
Attachments: 02 Request for Decision - FCA.docx

From: Tucker, Melanie AG:EX <Melanie.Tucker@gov.bc.ca>
Sent: Monday, July 25, 2022 4:51 PM
To: Matieschyn, Zachary HLTH:EX <Zachary.Matieschyn@gov.bc.ca>; Lorensen, Tanner AG:EX <Tanner.Lorensen@gov.bc.ca>; Malik, Ashish AG:EX <Ashish.Malik@gov.bc.ca>; Murray, Ryan HLTH:EX <Ryan.Murray@gov.bc.ca>; Shust, Susan D HLTH:EX <Susan.Shust@gov.bc.ca>; Oldham, Kim L FIN:EX <Kim.Oldham@gov.bc.ca>; Andersen, Maureen P AG:EX <Maureen.Andersen@gov.bc.ca>; Alexander, Ross AG:EX <Ross.Alexander@gov.bc.ca>
Cc: Warrington, Grant S FIN:EX <Grant.Warrington@gov.bc.ca>; Nadziejko, Anita T AG:EX <Anita.Nadziejko@gov.bc.ca>; Salter, Jaclyn AG:EX <Jaclyn.Salter@gov.bc.ca>
Subject: Wrongful Death Reform - Cross Ministry Working Group

Good afternoon,

Please find attached the first draft of a proposed cabinet submission for wrongful death reforms s. 12, s. 13

As you will see there is more work to be done, but I'd like to get your comments and feedback before the document is finalized anyway so it can be incorporated.

Please do not circulate this document beyond this group at this stage.

Thanks so much for your time, efforts and work so far! I will be watching from Transportation to see how it progresses.

All comments and feedback after this week should be sent to Anita Nadziejko.

Cheers,

Melanie Tucker



Cabinet Submission— s. 12, s. 13

This Template Last Updated: November 15, 2021

Minister: Honourable David Eby, QC, Attorney General and Minister
Responsible for Housing

Ministry: Attorney General

Date: 31/08/2022

Title: Family Compensation Act and Wrongful Death Reforms

EXECUTIVE SUMMARY

Issue:
s. 12

s. 12, s. 13

This cabinet submission seeks policy approval to s. 12, s. 13



s. 12, s. 13

Key implications and considerations:

- The AG has publicly committed to reforming the FCA during this term of government. The FCA is tentatively on the Fall 2023 legislative agenda.

s. 12, s. 13

s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

Recommended option:

Option 1 – s. 12, s. 13

s. 12, s. 13

Background and context:

s. 12

s. 12, s. 13



s. 12

- One of the largest barriers to having the legislation proceed during previous attempts was s. 12, s. 13

s. 12

s. 12 s. 12, s. 13

s. 12



Key Criticisms of FCA
s. 12

s. 12, s. 13

s. 12

Data Challenges



s. 12



s. 12

s. 12, s. 13

s. 12

⁴ Source: Vital Statistics Agency, Ministry of Health

s. 12



s. 12, s. 13

s. 12

s. 12

s. 12

s. 12, s. 13

s. 12, s. 13

s. 12

s. 12, s. 13



s. 12

s. 12, s. 13



s. 12, s. 13

Policy considerations:

s. 12, s. 13

s. 12, s. 13



s. 12, s. 13

BC



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13



s. 12, s. 13

[Add Gender-Based Analysis Plus (GBA+)]

Indigenous peoples:

s. 12, s. 13, s. 14

s. 12, s. 13, s. 14
Public engagement and consultation has not yet take place.
s. 12, s. 13



Options:

Option 1 (Recommended) s. 12, s. 13
s. 12, s. 13

Commented [TMA5]: Requested assistance with this from Eden Landero

Advantages
s. 12, s. 13



Disadvantages

s. 12, s. 13

Option 2 – s. 12, s. 13

Advantages

s. 12, s. 13

Disadvantages

s. 12, s. 13



Option 3 – s. 12, s. 13

Advantages
s. 12, s. 13

Disadvantages
s. 12, s. 13

Fiscal impacts
s. 12, s. 13

s. 12, s. 13

Treasury Board Staff comments

Treasury Board Staff (TBS) comments must be included verbatim. The comments should indicate whether TBS agrees with the characterization of fiscal impacts and whether the proposal requires Treasury Board review. If the comments are lengthy, they may be included as an appendix.

You must provide a draft and final copy of your Cabinet submission to your ministry's Treasury Board Analyst at the same time as provided to Cabinet Operations.



Impacts and outcomes:

Commented [TMA8]: Not yet started.

Discuss the expected short, medium and long-term impacts and outcomes of the recommended option and how success will be measured. Include the timeframe and method(s) by which the ministry will evaluate whether the initiative has achieved the intended outcomes.

The Ministry of Finance has developed a [Logic Model Toolkit](#) to help facilitate the completion of this section. Ministries may also wish to include an appendix with a logic model that clearly shows the relationship between key inputs, activities, outputs, and outcomes.

Business and economic implications:

Summarize the implications of the recommended policy change for businesses and the economy. If business and economic implications are not quantifiable, include a qualitative assessment. See the [Business and Economic Implications Framework \(BEIF\)](#) for more information and resources.

Attach the BEIF worksheet to the three week draft submission submitted to Cabinet Operations, and provide a copy of the worksheet to the BEIF office at BEIF@gov.bc.ca.

Legal issues and advice:

Briefly outline key legal issue(s) that are relevant to this submission, including any legal advice received from the Legal Services Branch.

Legal issues and advice respecting Indigenous rights and interests should be included under the Indigenous Peoples section above.

Ensure that your LSB advising solicitor, or the Assistant Deputy Attorney General, agrees with the summary of legal advice (if any) set out in this submission.

Legislation:

s. 12, s. 13



s. 12, s. 13

s. 12

s. 12, s. 13

s. 12, s. 13

s. 12

External consultations:

An external engagement plan has been developed which includes public consultation and engagement with stakeholders, including affected families, community organizations and the legal community.

Impacted stakeholders include: the Disability Community (BC Coalition of People with Disabilities, Vancouver Island Head Injury Society) Community Organizations (Mothers Against Drunk Driving, Parents Coalition of BC, Parent and Child Advocacy Coalition), Counsellors and Psychologists (BC Assn. of Specialized Victim Assistance & Counselling Programs, BC Council for Families, BC Art Therapy Association, BC Association of Clinical Counsellors, BC Association for Marriage and Family Therapy, BC Psychological Association, College of Psychologists of BC), Funeral and Burial Sector (Funeral Services Association of BC, Cemetery and Crematorium Association of BC), Insurance and Legal Community (Coalition Against No-Fault in BC, Trial Lawyers Association of BC, Canadian Medical Protection Association, Law Society of BC.

Commented [TMA9]: Ministry of Health:
Health Sector Workforce and Beneficiary Services Division:
Zach Matiescheyn (Nursing Policy Secretariat)
Ryan Murray (Physicians Services Branch)
Corporate Issues Client Relations Division
Susan Shust (FOI and Litigation)
Jordan Will (Patient Care and Quality Review Board Secretariat)
Leah Smith (Hospital Services Branch, Priority Initiatives and Quality)

Ministry of Finance, Risk Management Branch:
Kim Oldham (Director)
Grant Warrington (Legal Counsel, Claims Examiner)

Commented [TMA10]: Saved in the Teams folder in the engagement folder.

As discussed - additional consideration will need to be given to the approach used in engagement with the public. See email from Preet saved in the teams folder.



Communications and public engagement:

If your Director of Communications determines a full communications plan is required, complete the Communications Plan template (Appendix A) attached to this submission.

Commented [TMA11]: Request for plan has been submitted to Preet Grewal. She is working on this with a mid August deadline and has requested the cab sub.

Signatures:

Contact:	First Name Last Name	Shannon Salter
	Title	Deputy Attorney General and Deputy
	(XXX) XXX-XXXX	Minister Responsible for Housing
		Date Signed
		Honourable David Eby, QC
		Attorney General and Minister
		Responsible for Housing
		Date Signed



Appendix A: Communications Plan Template

Communications plan

Ministry of < Name >

Cabinet Submission

Item: e.g. Wildfire announcement

Summary:

Type:	e.g. Event / Announcement / News Release / Technical Briefing / Other		
Item summary:	< Brief description of the <i>communications</i> aspect of the item >		
Date:	Month / Day / Year	Venue / location:	
Primary:	< e.g. Premier >	Featuring:	< Other Ministers/MLAs > < Other elected officials > < Stakeholders >
Audiences:			
Message frame:	< List key messages >		
Key validating facts:	< List any facts that support the key messages >		
Potential issues/ challenges:	< List potential resulting issues with announcement >		

Media plan – stakeholders:



Approvals required:	< TB / Cabinet / PO / Other approvals outstanding >		
Stakeholders:	< Provide list of stakeholders >		
Notify stakeholders:	☐ Before announcement	☐ After announcement	
	☐	☐	
Local NR opportunity:	< List MLAs who could do a riding-specific NR >		

Media plan – event overview:

Complete only if this item involves an event.

Has an Event Plan been completed?:	☐ Yes	☐ No
Has Event Services been contacted?:	☐ Yes	☐ No
Event summary:	< Brief summary of event details (where, when, etc.) >	

Media plan – announcement:

Announcement details:	< Brief description of how the announcement, event, etc. will play out >
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Specific media engagement:	< Regional media, one-on-one's, etc. >
Digital release:	< What is being done concurrently on social media? >
Ethnic media plan:	< Focus on Asian and South Asian communities >

Media plan – follow up:

Sustaining activities:	< Recommended follow-up activities, in brief, by Ministers or MLAs >
Digital follow up:	< Any ongoing social media activities? >
Consultation/ engagement:	< Does this announcement require a consultation process? If so, has this been discussed/approved by the GCPE Public Consultation Unit? >

Authorization:

 Director of Communications
 Ministry of < Name >

 Deputy Minister (Ministry)

 Month Day, Year



Appendix 2 – s. 12

s. 12