



**In this issue:**

1. [Calculating Shared Custody: Q.B.](#)
2. [Security for Costs: Q.B.](#)
3. [Strengthening the Child Support Recalculation Service](#)
4. [Update on Grandparent Access Legislation](#)
5. [Family Orders for Support Staff: CLE](#)
6. [Thanks to eLaw Family Law Update Volunteers](#)

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**1. Calculating Shared Custody: Q.B.**

The court in [Stuart v. Multan](#), 2006 MBQB 238 (CanLII) considers whether the childcare arrangements in place between the parties meet the 40% threshold required for an order of shared custody. The court finds that:

While superficially the father's argument has some merit, I expect that if I found him to be correct, the cost consequences to the mother might be so severe that she would "take back" that time and make different childcare arrangements. Further, I do not find that counting every minute of the children's life with each parent is the appropriate method of determining whether there is a shared custody arrangement. In my view, the court should look to the periods of full days or nights where a parent is fully in charge of the children in calculating whether the threshold has been met. In this family, the mother is "in charge" of the children when they are not with the father. She has chosen to place them with the father for brief periods each day, but ultimately, she is responsible for them for the entire time they are with her. Accordingly, I decline to find that the after-school care the father provides should be included in any calculation of time sharing.

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**2. Security for Costs: Q.B.**

In [Gale v. Gale](#), 2006 MBQB 252 (CanLII) the court is requested to make an interim determination of the husband's income for the purposes of calculating quantum of interim spousal support to be paid. The court rejects an income averaging approach, stating that:

...where the income swings are as great as they have been for this family, it is not appropriate to average income. Further, the prospect of requiring a trial judge to recalculate averages against reality for 2006 and 2007, when the financial information is complete and available now, seems to call for an unnecessary duplication of effort and evidence. While I accept that the property issues are complicated, I do not accept that it is going to take forever for them to be ready for trial. Considering that the income for this year is known and the next year can be predicted with some confidence, I reject the averaging approach.

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**3. Strengthening the Child Support Recalculation Service**

[Bill 14](#), *The Family Maintenance Amendment and Inter-jurisdictional Support Orders Amendment*

*Act* was introduced on December 6, 2006. The Bill enhances the ability to locate persons in cases of child support recalculation, maintenance enforcement and inter-jurisdictional support, and the ability to obtain financial information needed to recalculate or enforce support. Proposed amendments to the *Family Maintenance Act* would also allow recalculated child support payments to take effect on a set date after the recalculation process starts, to provide greater certainty and avoid delay when a parent does not provide the necessary financial disclosure in a timely manner. The Bill also clarifies the Manitoba court's jurisdiction to vary certain support orders in inter-jurisdictional cases.

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#### **4. Update on Grandparent Access Legislation**

In the last issue, we told you that [Bill 9, \*The Grandparent Access and Other Amendments Act \(Child and Family Services Act Amended\)\*](#) had been introduced. It moved quickly through the legislative process and took effect on December 7, 2006 when it received Royal Assent.

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#### **5. Family Orders for Support Staff: CLE**

To keep your support staff abreast of changes in preparation of Family Division Orders, encourage them to attend the upcoming CLE program, [Family Division Court Orders and the Mandatory Standard Clauses: A Program for Legal Support Staff](#) to be held on January 19, 2007 at 12:00 noon. Support staff programs frequently sell-out so be sure to register your staff early.

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#### **6. Thanks to eLaw Family Law Update Volunteers**

Thank you to the volunteers who help in providing the content for the *eLaw Family Law Update* each month: Shannon Breckman, Andrea Dodgson, Greg Evans, Lori Glowacki, Joan MacPhail, Q.C. and Norm Yusim. If you're interested in being an eLaw volunteer, please contact Karen Dyck, Competence Counsel by phone at 942-5571 or by email to: [kdyck@lawsociety.mb.ca](mailto:kdyck@lawsociety.mb.ca).

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