



The Court of King's Bench

Annual Report

2020 ■ 2021 AND 2021 ■ 2022





LAW COURTS

411

Public Access
411 York Ave.
Entrée du public
411, av. York



THE HONOURABLE GLENN D. JOYAL
CHIEF JUSTICE

THE LAW COURTS
WINNIPEG, MANITOBA R3C 0P9

COURT OF KING'S BENCH OF MANITOBA
COUR DU BANC DU ROI DU MANITOBA

L'HONORABLE GLENN D. JOYAL
JUGE EN CHEF

PALAIS DE JUSTICE
WINNIPEG (MANITOBA) R3C 0P9

Honourable Matt Wiebe
Minister of Justice and Attorney General
Legislative Building
Room 104, 450 Broadway
WINNIPEG MB R3C 0V8

Dear Minister:

We are pleased to enclose the Manitoba Court of King's Bench Annual Report for the fiscal years April 1, 2020 to March 31, 2021 and April 1, 2021 to March 31, 2022.

Sincerely,

Original signed by

Chief Justice Glenn D. Joyal
Manitoba Court of King's Bench

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1 Introduction from the Chief Justice



Glenn D. Joyal
Chief Justice, Court of King's Bench

I am pleased to present this first Annual Report for the Court of King's Bench of Manitoba¹, covering the two-year period ending in March of 2022. *The Court of King's Bench Act*² was amended in 2019 to require the preparation of an annual report documenting the operation, functioning and administration of the Court during the preceding year. In addition to discharging our public accountability responsibilities, I hope that this first Annual Report will provide an introduction to, and general overview of, the Court, with future reports focusing on additional themes and issues of interest to the public and justice stakeholders.

Although this report documents the activities of the Court during a particular two-year time frame, I would be remiss not to note that there are a number of initiatives and efforts that preceded the reporting period, and that have informed the ongoing work of the Court. Motivated by the imperative to enhance access to justice, the Court has taken steps to improve the timely delivery of judicial services in a manner that best serves the parties, counsel, and the public.

Of particular note has been the development and implementation of new models of case flow and court scheduling across all areas heard by the Court – criminal, civil, family, and child protection matters. With frustration about delay shared by all justice participants – be it parties, counsel, or judges – these new models have required a collective sense of purpose and commitment. These necessary systemic changes (some of which were commenced shortly after I became Chief Justice in 2011) represent the beginning of an evolving process that is intended, over time, to result in a more accessible and more responsive court.

Recognizing that change, particularly systemic change, is never easy, I commend all participants for their rigour and attentiveness in implementing and normalizing these new approaches. I have little doubt that this shared commitment served us well when we were faced anew with the prospect of delays arising from the COVID-19 pandemic. Despite the significant disruption caused by this unforeseen

¹ With the passing of Her Majesty Queen Elizabeth II on September 8, 2022, the Court of Queen's Bench of Manitoba became the Court of King's Bench. Although the reporting period preceded the name change, all references in this report are to the Court of King's Bench.

² At the time in question, known as *The Court of Queen's Bench Act*.

1 Introduction from the Chief Justice

global crisis, the work of the Court continued and the Court of King's Bench found itself with no backlog and minimal delays upon resuming regular in-person operations.

On the theme of access to justice, I wish also to highlight the important work of the Trust, Reconciliation and Access to Justice Committee (TRAC). Established in 2017 to address the unique obligations and opportunities surrounding the Court's relationship with Indigenous Manitobans, members of the committee have continued the task of exploring concepts of judicial reconciliation. Although the pandemic curtailed some of these efforts, TRAC continues to reassess its progress toward judicial reconciliation.

It is clear that next steps will require further consultation with and enhanced participation of Indigenous Peoples. The resurgence of Indigenous laws, legal processes and traditions are informing and guiding our work. New ideas, new legal and judicial processes, and new partnerships with those we serve present an exciting future for our Court and for its provision of judicial services that will be accessible to and a benefit for all Manitobans. I look forward to continuing to provide updates on the Court's progress.

Glenn D. Joyal

Chief Justice, Court of King's Bench

2 Response to COVID-19 Pandemic

The Courts must continue to safeguard the rule of law even in times of crisis. As the third branch in our constitutional democracy, the Courts are an essential pillar of a democratic society, and must remain operational even in the most trying circumstances.

March 2020 brought with it one of the biggest challenges faced by our Court in the delivery of justice to Manitobans. On the heels of the World Health Organization's declaration of a pandemic and the first reported case of COVID-19 in Manitoba, the Court, along with the Manitoba Court of Appeal and the Provincial Court of Manitoba, was challenged to continue to adjudicate matters while protecting the health and safety of all court participants. Faced with this public health crisis, the Court was tasked with finding ways to maintain open and accessible services while remaining mindful of evolving public safety requirements. Achieving this balance was difficult, but necessary.

Pursuing this balance required the Court to take a series of steps to ensure that it could continue to maintain the Court's core function. At the outset of the pandemic – on March 13, 2020 – the Courts restricted access to courthouses to only those persons necessary to court proceedings. All trials scheduled to proceed by judge and jury were either rescheduled, or proceeded by judge alone. In the coming days and weeks, the Court provided further detailed direction on how to manage hearings that could not proceed due to COVID-19 related health and safety concerns. Concurrently, in close consultation with members of the bar, the Court also identified options to permit those matters that could proceed to safely do so. These both responsive and proactive measures implemented

by the Court, of necessity, involved the expanded use of remote hearings, both through videoconference and teleconference.

A series of measures were also implemented to enhance public safety. These included enhanced cleaning, screening, and physical distancing measures. Plexiglass barriers were installed at Court counters, as well as in courtrooms. Effective September 8, 2020, subject to some limited exceptions, the wearing of masks by members of the public while in the courthouse became mandatory. To protect those members of the public compelled to participate in judicial proceedings, with the resumption of jury trials in September 2021, the Court established vaccination requirements for prospective jurors.

Over the course of this two-year period, the Court issued regular updates on scheduling protocols, mode of proceedings, and attendance at the courthouse. In February 2022, the Court issued a notice outlining a transition plan, which was to proceed by way of a gradual relaxation of restrictions over the spring of 2022.

A complete list of Court of King's Bench COVID-19 related notices and practice directions, as well as notices issued by the three Manitoba Courts, can be found on the Manitoba Courts website at www.manitobacourts.mb.ca/covid-19/.

In view of a rapidly evolving situation and at the height of the pandemic, the Court was required to make decisions quickly, in real time, and in the face of much uncertainty. Although some of the protective restrictions may have caused immediate strain and hardship to justice participants, these constraints also compelled the Court to be nimble and adaptable.

2 Response to COVID-19 Pandemic

Although promising and convenient for many, the quick and unplanned move to virtual proceedings also exposed some anticipated and unanticipated frailties and effects – privacy concerns, access issues, systemic inequities, loss of professional collegiality – that will require thoughtful, innovative, and integrated

responses to which the Court must turn its focus in the years to come. Implementing these responses, as well as responses to related pressures – for example, increasing numbers of self-represented litigants, the limitations of existing technology – will continue to require sufficient and appropriate court resources.



Courtroom 210

3 About the Court of King's Bench

The Court of King's Bench is the highest trial court in Manitoba. It hears civil and criminal matters, as well as family and child protection proceedings. The Court of King's Bench is a court of inherent jurisdiction. This jurisdiction arises from common law traditions and means that the Court can hear any matter that comes before it, unless jurisdiction is assigned to another court by legislation. Each of the areas overseen by the Court involve important responsibilities that can trigger the need for judicial oversight, intervention, mediation, or adjudication.

The Court has two Divisions – the General Division and the Family Division. In addition to dealing with civil and criminal matters, the General Division hears appeals from decisions by masters, small claims hearing officers, and the Provincial Court on summary convictions. It also reviews decisions from certain administrative tribunals. The Family Division deals with family and child protection proceedings. It also hears adoption and guardianship applications, protection order proceedings, inter-jurisdictional support and variation applications, and Hague Convention applications for the return of a child.

TABLE 1 – TOTAL FILES OPENED

Shows the number and types of cases opened for each of the reporting years:

TABLE 1 – TOTAL FILES OPENED ALL COURT CENTRES		
Division	2020/2021	2021/2022
Adoption	87	102
Bankruptcy	390	288
Civil	4219	4776
Child Protection	398	365
Criminal	750	742
Family	3012	3191
Probate	4082	4166
Small Claims	2162	1981
Young Offender	34	31
Total	15134	15642

3 About the Court of King's Bench

JUDICIARY

The Chief Justice is responsible for the management of the judicial functions of the Court. This includes direction over the sittings of the Court and the assignment of judges to manage and adjudicate proceedings. There are two Associate Chief Justices of the Court of King's Bench – the Associate Chief Justice of the General Division and the Associate Chief Justice of the Family Division. The Associate Chief Justices carry out those administrative duties assigned to them by the Chief Justice.

In addition to the Chief Justice and the two Associate Chief Justices, the Court is composed of 32 full-time judges, 20 of whom are judges of the General Division, 12 of whom are judges of the Family Division. General Division judges sit in Brandon, Dauphin, Flin Flon, Morden, Portage la Prairie, Selkirk, St. Boniface, Swan River, The Pas, Thompson, and Winnipeg. Family Division judges sit in Flin Flon, Morden, Selkirk, St. Boniface, The Pas, Thompson, and Winnipeg.

A series of Court committees supports the work of the Court. The committees are constituted and members named by the Chief Justice. Committees consider matters of importance to the Court on a variety of subjects and provide general advice and guidance to the Court as a whole. The committees' work focuses on law based issues (civil practice, criminal practice, probate practice, family law) and court administration (security, library, technology, Website). Pursuant to section 91 of *The Court of King's Bench Act*, a rules committee has been established to make rules about the practice and procedure of the Court. A series of subject-specific committees – including the Judicial Education Committee and the Trust, Reconciliation and Access to Justice Committee – carry out essential work for the Court. Several committees bring together representatives from the other Manitoba Courts. Committees draw their membership from the judges, masters, registrars, judicial staff; certain committees also include representation from the legal profession and the community.

3 About the Court of King's Bench

MASTERS³

Masters are judicial officers appointed pursuant to *The Court of King's Bench Act*, with jurisdiction prescribed by legislation, including the King's Bench Rules. There are five masters in Manitoba, including a Senior Master. Four masters sit in Winnipeg, with the other sitting in Brandon.

The masters have extensive jurisdiction with respect to court motions and references, which may be directed by judges of the Court. There is no monetary limit to the jurisdiction of masters. Respecting family matters, the masters also deal with *Family Property Act* references, Maintenance Enforcement court, and Child Protection screening court.

The masters do not deal with criminal matters but preside over a number of matters in the General Division, including the passing of accounts in estate and committee cases. The masters hear all fee assessment references where clients dispute the accounts rendered by their lawyers as well as most procedural motions in civil actions.

The masters are also appointed Registrars in Bankruptcy and preside over most court proceedings under the federal *Bankruptcy and Insolvency Act*. These include bankruptcy discharge applications, appeals of trustee disallowances, and the taxation of the accounts of trustees and insolvency lawyers.

The decisions of masters may be appealed to a judge of the Court of King's Bench.



³ *An Act Respecting the Title of "Associate Judge" (Various Acts Amended)* received royal assent on May 30, 2023 and comes into force on September 27, 2023. The Bill amends *The Court of King's Bench Act* to change the designation of judicial officers appointed under Division 2 of Part IV of the Act from "master" to "associate judge", with consequential amendments made to a number of other statutes.

4 Caseflow Scheduling Models

CRIMINAL

Access to a fair and timely trial has always been an important objective and an essential component of this Court's attempt to maximize access to justice in criminal proceedings. In order to maximize such access, the Court had to confront the challenge of needed reform. The General Division addressed this challenge through its assignment court project, scheduling guidelines, and the rigour that flow, from what were new and more focused criminal rules. Those reforms have evolved and have now become normalized so as to act as a persistent safeguard against returning to a "culture of delay". This avoidance of delay and the changing of a culture that had facilitated it was particularly important in an area of the Court's jurisdiction where an accused's liberty, a victim's need for closure, and the public's right to a final hearing on the merits need be prioritized. Many of the identified reforms and new scheduling guidelines preceded (but took on a new importance following) the clearly articulated constitutional imperatives discussed in the landmark 2016 Supreme Court of Canada judgment of *R. v. Jordan*. The assignment court project, scheduling guidelines, and criminal rules have all in their unique way functioned to reduce trial delays by ensuring early and more efficient pre-trial conferences and timelines for the fixing of hearing dates.

A critical part of our initiatives in this area has included the requirement that early trial dates be set at the first pre-trial conference and that sentencing hearings be set at the time that a conviction is entered (where the sentencing is not taking place at that time). Pre-trial dates must be scheduled within 45 days of committal or filing of a direct indictment. Trial dates are set within 8-14 months of the first pre-trial date (with in-custody accused being given priority.) The introduction of criminal rules also require, from the time of the first pre-trial conference, an increased rigour in the assessment of issues so as to ensure focused contested hearings and to encourage the resolution of cases, or at least a narrowing of issues requiring adjudication.

Details on the average time to disposition, average number of appearances for accused persons, and clearance rates for criminal cases are set out in Tables 2-4 below. During portions of 2020/2021 and 2021/2022, the Court schedule was impacted by COVID-19 restrictions, which led to a reduction in the number of scheduled hearings and impacted the time to disposition, average number of appearances and clearance rate.

4 Caseflow Scheduling Models

TABLE 2 – AVERAGE TIME TO DISPOSITION

The average time to sentencing disposition by accused.

TABLE 2 – AVERAGE TIME TO DISPOSITION (MONTHS) – ALL COURT CENTRES	
2020/2021	2021/2022
15.2	17.1

NOTE: Includes only Direct Indictment and Committal adult files. Compares the filing date of the opening document (Direct Indictment or Notice to Appear [Committal and Assignment Court]) to the filing date of the sentencing disposition for each accused.

TABLE 3 – AVERAGE NUMBER OF APPEARANCES

The average number of appearances by court file in Winnipeg Centre.

TABLE 3 – AVERAGE NUMBER OF APPEARANCES – WINNIPEG CENTRE	
2020/2021	2021/2022
5.7	6.8

NOTE: Includes only Direct Indictment and Committal adult files. Counts the number of appearances between the filing date of the opening document (Direct Indictment or Notice to Appear [Committal and Assignment Court]) to the filing date of the most recent sentencing disposition.

Importantly, these appearances are expected to be meaningful events wherein steps are taken to ensure particularly focused contested hearings, and resolution or narrowing of issues requiring adjudication. These are not appearances simply to remand a case from one date to a next.

TABLE 4 – CLEARANCE RATE

The number of files opened and concluded and the clearance rate by court file.

TABLE 4 – CLEARANCE RATES – TOTAL FILES OPENED – ALL COURT CENTRES		
Files	2020/2021	2021/2022
Opened	162	173
Concluded	184	137
Clearance Rate	114%	79%

NOTE: Includes only Direct Indictment and Committal adult files. Compares the filing date of the most recent sentencing disposition to the filing date of the Direct Indictment or Notice to Appear (Committal and Assignment Court).

4 Caseflow Scheduling Models

CIVIL

Following unprecedented outreach with the civil bar and purposeful work by a select group of judges and lawyers, the Court's access to justice initiatives in the realm of civil proceedings were significantly enhanced by amendments to the Court's civil rules and related practice directives, largely animated by principles of proportionality.

Initiatives undertaken by the General Division in support of this concept have included:

- Court rules that ensure throughout the course of the pre-trial process, an action is subject to active and ongoing supervision by the pre-trial judge, who may give any direction that he or she considers necessary to facilitate the just, most expeditious and least expensive determination of an action. This may include establishing reasonable limits on pre-trial steps and the presentation of evidence at trial.
- Implementation of the "one-judge model", where the same judge handles all procedural steps, hears any motions, and presides over the trial.
- Requiring that a timely trial or dispositive motion be set at the first pre-trial conference, with adjournments of such hearings only permitted in exceptional circumstances. Trial dates are scheduled within 24 months of the first pre-trial.
- Expanding the options available to facilitate settlement to include not only judicially assisted dispute resolution but also a neutral evaluation where early in the process a judge can provide his or her non-binding opinion on the probable outcome of the matter following a presentation of each party's best case.

FAMILY

The new initiatives for resolving family disputes use judicial resources at an early stage in proceedings. The development of triage conferences, regular and extended case conferences, prioritized hearings, emergent hearings, and judicially assisted dispute resolution has provided the means for judges to provide meaningful access to justice to families in Manitoba.

Ongoing statistical data for the New Case Flow Model confirms that there continues to be a high-resolution rate for family matters at appearances before the triage and case conference judges.

Since the introduction of the model, the vast majority of family justice matters have been either partially or fully resolved at the triage conference. As a result, the Family Division in Winnipeg Centre has seen a substantial decrease in the number of case management conferences, with very few matters proceeding to trial.

In 2021:

- Approximately **70%** of matters at the triage conference were either completely or partially resolved at that one appearance.
- The number of case conferences significantly decreased from 1,980 in 2018 to 632 in 2021, a decrease of **68%**.
- Only **16** matters proceeded to trial. Trial dates are scheduled within 18 months of the first case conference.

Accordingly, family justice litigants spend less time and money on litigation as the parties, with the assistance of the Court, quickly and efficiently resolve disputes that do not require a trial.

4 Caseflow Scheduling Models

CHILD PROTECTION

The Court's new initiatives for resolving child protection issues have focused on the problem of systemic delay. The new Child Protection Model sets specified time limits for each step of the court process, which ensures that when required, there is a fair and prompt post-apprehension hearing. A Child Protection Intake Court has been created, which encourages parents, agency workers, case supervisors, and counsel to work collaboratively with intake judges to find solutions that are in the best interests of children who have been apprehended.

The new Child Protection Model has been very successful in Manitoba in prioritizing child protection proceedings and addressing unacceptable delay in court proceedings. Observations based on the statistical data for the first 12 months of the new Child Protection Model in Winnipeg Centre include:

- Approximately **80%** of the child protection matters that came before the intake judge were resolved at that one appearance
- Approximately **14%** of child protection matters proceeded to a pre-trial conference
- Approximately **75%** of the child protection matters that proceeded to a pre-trial conference were resolved at that one pre-trial conference.

From the time that the new Child Protection Model was implemented in 2017 to date:

- Delays of up to 8 months of matters before the master have been replaced by matters being completed before the master within 60 days
- A significant number of adjournments before the master has been eliminated. The shorter 60-day mandatory timeline before the master continues to help maintain the involvement of parents
- There has been a culture change in child protection proceedings, which has resulted from the implementation of the new model. Parents are routinely present, most often with counsel, at the hearing before the intake judge and the pre-trial conference, with alternative plans that they have prepared with their counsel
- Trial dates under the new Child Protection Model are available within 3 to 6 months of the intake appearance, replacing delays of approximately 12 months. Notably, as well, few matters proceed to trial.

5 Committees

JUDICIAL EDUCATION COMMITTEE

Each year, judges of the court participate in two “in-house” education seminars, one in each of the spring and fall terms. The Court’s Judicial Education Committee plans and presents these sessions in conjunction with the National Judicial Institute (NJI). The seminars provide continuing education for judges of the Court on developments in the law, judicial skills, and social context. The programs are developed consistent with the relevant provisions of the *Judges Act*, and are designed to include content of value to both newly appointed and more experienced judges.

The COVID-19 pandemic resulted in changes to the delivery of the Court’s judicial education programs. The April 2020 program was cancelled, while the October 2020, April 2021 and October 2021 seminars were delivered virtually. Topics addressed in these three virtual programs included, among others:

- October 2020: parental alienation in high-conflict family law cases and recent developments in the law of sexual assault;
- April 2021: virtual court proceedings and contempt of court, developments in the law on bail, bail review, jury selection, and variation of family court orders;
- October 2021: reconciliation, implicit bias and cultural competence, judicial skills for conducting a fair and efficient hearing, judicial notice in criminal trials, developments in jury selection and limits to judicial intervention in criminal trials, retroactive child support orders, protection order set aside hearings, and bankruptcy and family property division.

Throughout the year, the Judicial Education Committee also presents a series of Learn at Lunch sessions for all judges of the Court. The Learn at Lunch program brings in guest speakers to deliver presentations on a variety of topics. During the reporting period, Learn at Lunch topics included the following:

- Bill C-78 *Divorce Act* amendments; Protection orders under Manitoba’s *Domestic Violence and Stalking Act* and protection order set aside hearings;
- Security for the Court;
- The Law Society of Manitoba’s proposal for expanding the scope of legal services a non-lawyer may provide in the area of family law;
- A report of the University of Manitoba’s Centre for Health Policy entitled “Manitoba’s Cross-Over Kids: Overlap between the Child Welfare and Youth Justice Systems”;
- The United Nations Declaration on the Rights of Indigenous Peoples in Canadian Law;
- The jurisdiction of the Tax Court of Canada; and
- Current issues in civil litigation, including summary judgment.

5 Committees

TRUST RECONCILIATION AND ACCESS TO JUSTICE COMMITTEE

In 2017, the Trust, Reconciliation and Access to Justice Committee (TRAC) was created with a mandate to address the unique obligations, opportunities and challenges that surround the Court's relationship with Indigenous Peoples in an era of reconciliation.

Chief Justice Joyal appointed five judges to carry out the mandate and report to him regularly on their progress. The foundation of TRAC's work rests on four pillars:

- Building trust and understanding with Indigenous communities;
- Judicial education to enhance our awareness and understanding of the challenges and opportunities related to reconciliation; and
- Identifying specific reconciliation initiatives and processes for implementation; and
- Normalizing and incorporating new processes achieved in reconciliation into the provision of judicial services in a way that ensures access to justice.

TRAC's work to date has involved outreach to the Indigenous communities, both urban and rural, north and south and beyond Manitoba. Opportunities for judges to connect with Indigenous communities have occurred while serving a holiday meal at Siloam Mission, receiving teachings on the importance of the land and attending learn at lunch sessions on the sacred eagle feather. Since 2017, each semi-annual judicial education session delivered by the National Judicial Institute has included lectures by Elders, Indigenous scholars and Knowledge Keepers. The introduction in 2019 of the sacred eagle feather as a form of oath in Manitoba Courts is a specific Indigenous-led reconciliation initiative that has become part of our everyday provision of judicial services at court counters and in courtrooms throughout Manitoba.

The global pandemic meant that TRAC was unable to continue its outreach efforts in person for the past two years. Videoconferencing and teleconferencing became vital to TRAC's efforts in maintaining and advancing reconciliation discussions with Indigenous communities throughout Manitoba.

Judicial reconciliation is a journey that courts are increasingly undertaking as an institutional responsibility. The mandate and work of TRAC is an example of meeting that responsibility. TRAC has accepted invitations from superior courts and judicial organizations throughout Canada to speak about judicial reconciliation and our approach and journey thus far.

5 Committees

CIVIL PRACTICE COMMITTEE

The Civil Practice Committee monitors practices and procedures governing civil litigation and, informed by principles of access to justice and proportionality, makes recommendations to improve these practices and procedures. The committee consists of several judges from the General Division, a judge from the Family Division and a master. The committee responds to concerns raised by, and seeks feedback from, other judges, masters, and members of the bar. The work of the committee often leads to improved practices and procedures either through Court rule amendments undertaken by the Statutory Rules Committee or by practice direction.

COMMERCIAL LIST COMMITTEE

Several years ago, the Court determined that insolvency proceedings brought under the *Bankruptcy and Insolvency Act* (the “BIA”), the *Companies’ Creditors Arrangement Act* (the “CCAA”) and similar proceedings, would be assigned to designated judges with expertise or interest in these areas of law. The decision was driven by a combination of factors. These included the short timelines demanded by these matters, as well as the potential efficiencies arising from the availability of a consistent complement of judges familiar with the applicable legislation, the nature of the filed materials, and the type of relief normally sought. The Court also decided that documents in these kinds of matters would be filed and stored electronically. Judges assigned to these matters access the “e-files”, with any orders issued electronically using e-signatures.

The Commercial List Committee monitors these cases and draws on the experiences of member judges – in consultation with counsel – to ensure that the process is working efficiently and effectively for stakeholders. A subset of the committee, assisted by members of the insolvency bar, has established model orders in respect of appointing receivers under the BIA, appointing monitors under the CCAA, vesting property, and discharging the court officer once their work is completed. The model orders provide a starting point with counsel still required to tailor proposed orders to the circumstances of their case. Any changes to the model orders must be tracked for the benefit of the presiding judge. The adoption of model orders – which exist in other jurisdictions across the country – has enhanced these processes, allowing judges to readily and efficiently identify any deviations from the anticipated order.

Drawing on the experience with insolvency model orders, a separate subcommittee was established to develop model *Mareva* and *Anton Piller* orders. These are tools that allow litigants to freeze another party’s assets before trial, and to seize and preserve evidence.

5 Committees

STATUTORY RULES COMMITTEE

The Statutory Rules Committee is established pursuant to section 91 of *The Court of King's Bench Act*. It is comprised of judges, lawyers, designates of the Minister of Justice, and a master. The Chief Justice or a designate chairs the committee. Section 92 of the *act* provides that the rules committee may make court rules with respect to the practice and procedure of the Court and sets out a non-exhaustive list of areas that may be addressed by the committee.

During the reporting period, several amendments were made to the King's Bench Rules. A series of amendments were made to Rule 70, Family Proceedings, including amendments to deal with program delivery, addressing and aligning the rules with changes to legislation (e.g. *The Arbitration Act*, *The Family Maintenance Act*, *Divorce Act*), refining the Family Division Case Flow Model, and facilitating the joint divorce petition process. A series of amendments were also made to Rule 76, small claims actions, including requirements related to appeals of a decision of a court officer.

PROBATE PRACTICE COMMITTEE

The Probate Practice Committee of the Court (also known as the Surrogate Practice Committee) makes recommendations regarding the Court's probate practice.

In 2015, the committee began the task of modernizing King's Bench Rules 74 and 75 (and the related forms) that pertain to probate practice in Manitoba. The modernization process involved many committee and subcommittee meetings struck to oversee this initiative. Subcommittees were comprised of judges, masters, and deputy registrars, as well as lawyers in private practice with expertise in estate work and contested probate proceedings.

During the reporting period, the committee began working on drafting revisions to the rules aimed at streamlining and clarifying procedural requirements.

5 Committees

CRIMINAL RULES AND PRACTICE COMMITTEE

The Criminal Rules and Practice Committee makes recommendations regarding the practice in criminal proceedings. Those proceedings include jury trials, trials before a judge alone, bail hearings, reviews of bail decisions of the Provincial Court, appeals from decisions in summary conviction matters and wiretap authorizations. Each of these proceedings entail unique procedures.

In 2016, the committee conducted a full revision of the court rules for criminal proceedings. The new rules, which replaced rules enacted in 1992, were drafted in consultation with the Crown and defence bar. The new rules are intended to create more efficiency in the process by ensuring that the parties and the judge hearing a matter are aware of all issues that are to be raised. The efficient use of court time is a concern for all proceedings in the Court, but it is of particular concern in criminal trials because delays impact on the accused's constitutional right to be tried within a reasonable time. The new rules introduced a more robust pre-trial process to ensure early identification of issues so that hearings can be scheduled in a timely and efficient way.

The committee also recommends protocols that may be necessary to implement changes in criminal procedure as a result of amendments to the *Criminal Code*, such as the recent changes to the jury selection process.

The committee has made recommendations to update legislation regarding compensation of jurors. The Court recognizes that jury duty can be an onerous obligation both in terms of the time commitment and financial consequences. As a result of recommendations by the committee, in 2021, *The Jury Act* and regulations were amended to increase compensation for jurors to bring it in line with other Canadian jurisdictions. Prior to the amendments, jurors received no compensation for the first 10 days of a trial and \$30 per day thereafter. They now receive \$80 for each day of trial.

While the COVID-19 pandemic required protocols to be put in place to protect the health of participants in all court proceedings, jury trials required particular attention. Courtroom set up was reconfigured to ensure distance between jurors so that they could feel comfortable participating without putting their health at risk.



Courtroom 210 Jury Box