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# Voice of the Child Programs and Services in Canada by Province and Territory

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## Introduction

There is growing recognition of the importance of having children participate in post-separation and divorce decision-making in a manner consistent with the *United Nations Convention on the Rights of the Child* (UNCRC). Article 12 of the UNCRC gives a child the “right” to be heard, directly or indirectly, through a representative in any administrative or judicial proceeding affecting the child.<sup>1</sup>

In Canada, there are many ways to include children’s voices in family law matters such as through non-court child inclusive methods (e.g., children talking with their parents, children sharing their views with professionals) and court-based child inclusive methods (e.g., child legal representation, parenting assessments, judicial interviews and Voice of the Child Reports). In particular, Voice of the Child Reports (VCRs) – also called Views of the Child Reports or Hear the Child Reports – are being increasingly used in a number of Canadian provinces and territories as a primary means of obtaining the child’s perspective in parenting disputes between parents and/or guardians. These reports provide information about the child’s perspective on their lives and the matters in dispute based on one or more interviews with a professional. They have become an important addition in dispute resolution given the changes to the *Divorce Act*<sup>2</sup> that highlight the obligations and responsibilities for children to be heard in family dispute matters.

This report highlights some key findings on the different ways that children can be heard across Canada, with particular emphasis on the use of VCRs.

## Methodology

This project used different methodologies: (1) a review of the social science literature between 2012-2022; (2) a case law review of family law decisions; (3) an online survey; and (4) virtual interviews with professionals (e.g., lawyers, social workers, policy advisors) across Canada who administer and/or provide Voice of the Child programs and services and other ways of hearing directly from children and young people (e.g., parenting assessments, child legal representation, child inclusive mediation, judicial interviews).<sup>3</sup>

The case law review<sup>4</sup> identified a total of 312 family law decisions about VCRs, child legal representation and parenting assessments released between January 2018 to March 2022 across Canada, with the exception of Nunavut, where there were no reported cases. A coding scheme was developed to extract 29 variables to better understand the ways in which children’s participation in court-based family disputes are being heard.<sup>5</sup>

The online survey consisted of approximately 26 open and closed-ended questions, which focused on collecting baseline data about how VCRs and other ways of including children’s views and preferences are used in each jurisdiction. A total of 33 participants, including policy and program government officials and court staff,

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<sup>1</sup> Birnbaum and Saini 2012a, b; Eekelaar 2015; Holt 2016; McCarty and Hyman 2018; Quigley and Cyr 2017; Tippet-Leary 2017; Walker and Misca 2019; Yassenik and Graham 2016; *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>2</sup> *Divorce Act*, RSC 1985, c 3 (2nd Supp.).

<sup>3</sup> Both the online survey and interviews consisted of purposive and snowball sampling. The Department of Justice Canada sent out the online survey in both official languages and the interviews were also done in both official languages.

<sup>4</sup> Only English family law cases were reviewed.

<sup>5</sup> Westlaw database was used, as it is the most comprehensive database for family law cases and materials in Canada. Similar to other legal databases, however, it only includes a fraction of all cases in which judges render decisions, and there are many “unreported decisions”. See Birnbaum et al. 2016 where they reviewed the case law from 2005-2014 and found a total of 68 family law cases that discussed Views of the Child reports across Canada.

completed the online survey. Over half of the participants indicated that their professional role was a lawyer (n=17/33; 52%), followed by court staff (n=5/33; 15%). There was representation from across Canada, with the exception of the Yukon, Quebec, Newfoundland and Labrador, and New Brunswick.

Virtual interviews were conducted to complement the information obtained from the online survey. The interviews were held with professionals (e.g., lawyers, mental health professionals) who prepare VCRs<sup>6</sup> across Canada with the exception of the Yukon, Nunavut, and Quebec. Participants were asked to respond to 10 open-ended questions about the processes and procedures in place about VCRs or hearing a child's views through another service or program as well as the challenges and barriers in hearing directly from children and young people involved in family disputes. A total of 27 participants (24 females and 3 males) were interviewed who had between 6-20+ years of experience in family justice.

All quantitative data<sup>7</sup> were downloaded into SPSS (v28) for data analysis. All qualitative analysis<sup>8</sup> followed a process for identifying, analyzing and reporting qualitative data using thematic analysis.<sup>9</sup> Key findings are presented below by jurisdiction. The findings summarize the case law, the online survey and interviews to present a broad picture of the processes and procedures used in conducting a VCR and other ways in which children's voices are heard across Canada.

## Findings<sup>10</sup>

### British Columbia: Process and Procedures for VCRs

VCRs are publicly-funded and court-ordered in British Columbia. Family justice counsellors provide non-evaluative reports (e.g., VCRs) in addition to evaluative reports (e.g., a parenting assessment). When conducting a VCR, family justice counsellors use a standardized template to document the child's views and preferences. There is only one interview with the child; no confidentiality is guaranteed to the child and there is no follow-up after the report is completed. There is no minimum or maximum age limit on interviewing children.

As reported by a participant,

*Reports under s. 211 of the FLA are by far the most common way to include children's voice[s]. These are ordered pretty routinely....- if one party requests the report they will typically be ordered even if the other party objects.... They are used to obtain the actual views of children in cases that courts consider high conflict (2-3 pages) but there are significant concerns that these reports, and particularly the "full" view and needs reports are also weaponized, for example by making retaliatory claims of alienation in cases of family violence. The Children's Lawyer is also used but only when parties are aware of them and when they have availability...."*

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<sup>6</sup> Some interviews were also held with policy and program officials who administer voice of the child programs and services in their jurisdiction.

<sup>7</sup> Given the exploratory nature of the survey and the type of data collected, the analysis focused on frequencies and percentages. Triangulating data from these multiple sources (e.g., case law, online survey, and interviews) allows for a richer and deeper understanding of the data obtained, and conclusions drawn.

<sup>8</sup> All participant interviews were audio-recorded and transcribed verbatim with permission.

<sup>9</sup> Braun and Clarke 2006

<sup>10</sup> The online survey defined an evaluative VCR as a report on children's statements with an opinion and a summary of the children's views. A non-evaluative VCR was defined as a report on the children's statements without offering an opinion or summary of the children's views. Evaluative VCRs are usually completed by mental health professionals only.

*Hear the Child Society* is a non-profit organization that also provides non-evaluative Hear the Child Reports for a fee. These are completed by private lawyers and mental health professionals. They conduct two interviews with the child and do not provide parenting recommendations. The participants noted that there is confusion between a publicly-funded family justice counsellor ordered under s. 211 of the *Family Law Act* versus a private practitioner who conducts a VCR through *Hear the Child Society* under the *Family Law Act*.<sup>11</sup>

Of the 72 British Columbian family law cases identified in the case law review, 88% (63/72) involved a VCR and 8% (8/72) involved a judicial interview. The average age of the child involved was 12 years of age. Cases where children were permitted to have their views heard and hold considerable weight, even if they are not determinative, ranged in age between 9 and 13 years old. A major theme identified in the language used by judges was that they found it important to hear from children and to provide them an opportunity to express their views and for those views to be given due weight in accordance with the age and maturity of the child reflected in Article 12 of the *United Nations Conventions of the Rights of the Child*.

### Alberta: Process and Procedures for VCRs

In Alberta, VCRs<sup>12</sup> are obtained through Practice Note 7 and Practice Note 8.<sup>13</sup> VCRs are evaluative as are parenting assessments and other therapeutic interventions in family disputes. Referrals for a VCR are court-ordered, as well as lawyer-referred upon consent to private practitioners. There is great variability between the private practitioners (e.g., lawyers and mental health professionals) who provide VCRs as to the cost of the service, the number of interviews and the process in conducting a VCR.

Of the 25 Albertan family law cases identified in the case law review, 16% (4/25) involved a VCR, 12% (3/25) involved a judicial interview, and 8% (2/25) involved a parenting assessment. The average age of the child involved was 11 years of age. A major theme identified in the language used by the judges was that children have a legal right to participate in a meaningful way in decisions that will impact their future; however, their views are not to be confused with their best interest. Another theme identified was that judges found it to be important to consider the child's appropriate age, maturity and stage of development, and acknowledge that the child's views are not determinative in decision-making.

### Saskatchewan: Process and Procedures for VCRs

Children's Voice Reports (i.e., VCRs) are court-ordered and provided by publicly-funded social workers in Saskatchewan. VCRs are typically ordered for children 12 years of age and older. The VCRs consist of two interviews; children are advised that confidentiality is not guaranteed and there is no follow-up with the child after the report is completed. There is a standardized template that social workers complete to report the child's views and preferences.

Of the 14 Saskatchewan family law cases in the case law review, 2% (3/14) involved a VCR and one family law case involved a judicial interview. The average age of the child involved was 13 years of age, and the ages ranged

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<sup>11</sup> For more information on *Hear the Child Society*, please see: <https://hearthechild.ca/>

<sup>12</sup> *Divorce Act*, RSC 1985, c 3, s 16(3)(e); *Family Law Act*, SA 2003, c F-4.5, s 18(2)(b); *Hague Convention on the Civil Aspects of International Child Abduction*, 25 October 1980, Hague XXVIII (entered into force 1 December 1983); *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>13</sup> Practice Note 7 and 8 reports/assessments are prepared mostly by psychologists and are evaluative in nature. The Alberta government provides no publicly-funded services to hear from children and young people. The court may order legal aid to provide funding for low-income individuals to obtain child legal representation or a parenting assessment. Legal Representation for Children & Youth through the Office of the Child and Youth Advocate provides legal representation for children in child protection matters and some parenting disputes.

from 6 to 17 years. A theme identified was that slightly more than half of the cases used language about the child's age and maturity (8/14; 57%). That is, courts tend to place less weight on the views of children who are 7 years of age or younger. Courts generally give significant weight to older children's views, such as those aged 16 years, although their views may not be determinative in the court's decision. Another theme related to the language used by the judges was that children's views and wishes are viewed as relevant and entitled to respect; however, children do not have the experience, nor context necessary to make such important decisions on their own in terms of their best interests. Therefore, the children's views do not determine the issues before the Court, nor are the child's wishes determinative.

### Manitoba: Process and Procedures for VCRs

The Manitoba government provides Brief Consultation Reports that have an evaluative component to them in addition to parenting assessments.<sup>14</sup> Unlike a VCR, Brief Consultation Reports extend beyond interviewing children and include interviews with both parents and children that usually result in a parenting recommendation. Typically, these reports are court-ordered and are provided by publicly-funded social workers.

Of the 10 Manitoban family law cases identified in the case law review, two cases discussed the importance of hearing from children through a Brief Consultation Report. The average age of the child involved was 12 years of age. A major theme identified in the case law was that the child's age was viewed as important, as in 70% of the cases, judges commented on the child's age and maturity in relation to their views being heard.

### Ontario: Process and Procedures for VCRs

The Office of the Children's Lawyer in Ontario provides several different publicly-funded services to obtain children's views and preferences: clinical investigations with parenting recommendations, child legal representation, child legal representation with a clinical assist,<sup>15</sup> and VCRs.<sup>16</sup> All the services are court-ordered. A VCR can be used with children over the age of seven years. It is non-evaluative and consist of two interviews with the child. Confidentiality is not guaranteed for the children and there is no follow-up after the VCR is submitted to the court. The Office of the Children's Lawyer uses a standardized "OCL Intake Form",<sup>17</sup> which is to be completed by each parent, as well as a standardized template that outlines the child's views and preferences.

Of the 113 Ontarian family law cases in the case law review, 21% (24/113) involved a VCR and one involved a judicial interview. The average age of the child involved was 11 years of age. Almost two thirds of the Ontario cases highlighted that children should have a voice, but should not necessarily be given a choice in the case given their age and maturity. Judges often used language focused on the *United Nations Conventions on the*

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<sup>14</sup> *Divorce Act*, RSC 1985, c 3, s 16(3)(e); *Family Maintenance Act*, CCSM c P10, s 2(1), 39(2.1)(j); *Hague Convention on the Civil Aspects of International Child Abduction*, 25 October 1980, Hague XXVIII (entered into force 1 December 1983); *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>15</sup> When a child is represented by a lawyer, a clinician may be assigned to assist the lawyer with the case. A clinician is a mental health professional, often a social worker, who is knowledgeable about child development and the issues that families experience. These mental health professionals usually assist in cases where there are specific serious clinical concerns that need to be addressed, or it is necessary to have them prepare an affidavit about a child's views.

<sup>16</sup> *Child Youth & Family Services Act*, SO 2017, c 14, Sch 1, s 74(3); *Children's Law Reform Act*, RSO 1990, c C.12, s 24(4), 30; *Courts of Justice Act*, RSO 1990, c C.43, s 112. *Divorce Act*, RSC 1985, c 3, s 16(3)(e); *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>17</sup> The referral intake form can be accessed through the following link: <https://ontariocourtforms.on.ca/en/office-of-the-childrens-lawyer-forms/>



*Rights of the Child* (Article 12), Katelynn's Principle<sup>18</sup>, the *Divorce Act* and the *Hague Convention on the Civil Aspects of International Child Abduction* (Article 13(b)) when speaking about children's views.

### Quebec: Process and Procedures for VCRs

Only case law was reviewed in Quebec.<sup>19</sup> Of the 26 Quebec family law cases, the average age of the child involved was 13 years of age. A theme identified in the case law was that the views of children who are 12 years and older should be given greater weight in Court, but that their views should not be determinative in the Court's decision.

### New Brunswick: Process and Procedures for VCRs

There are no publicly-funded services for VCRs in New Brunswick. When they are court-ordered or lawyer-referred, VCRs are typically completed by private practitioners.<sup>20</sup> As a result, there is variability across the province by practitioner with respect to the cost, number of interviews and process.

Of the 28 New Brunswick family law cases in the case law review, 61% (17/28) involved a VCR and one involved a judicial interview. The average age of the child involved was 10 years of age. In half of the cases, judges commented that the children's views and wishes were to be considered within the context of their age and maturity. That is, as children get older, their views should receive greater weight.

### Nova Scotia: Process and Procedures for VCRs

In Nova Scotia, VCRs<sup>21</sup> are provided by publicly-funded social workers.<sup>22</sup> They are court-ordered or lawyer-referred, and consist of two interviews with the child with no confidentiality provided. There is no follow-up after the VCR is completed. The reports are typically non-evaluative, however, evaluative comments about the child and their circumstances can be made. Participants who completed the surveys reported that they provide evaluative comments when conducting some VCRs. There is a standardized template that the social workers use to report the child's views and preferences.

As one participant stated,

*The Voice of the Child is normally used so the Court has an independent representation of the child's views without requiring the child to testify or prepare evidence. It ensures that the best interests of the child is (sic) protected by individuals (including the Court) asking a question that could be leading to an answer or harmful to the child's well-being.*

Of the 13 Nova Scotian family law cases identified in the case law review, 54% (7/13) involved a VCR. The average age of the child involved was 13 years of age. Almost two thirds of the cases reviewed included comments on the children's ages and maturity when giving weight to the children's perspectives. A recurring theme observed in the cases was that greater weight was given to older or more mature children's perspectives;

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<sup>18</sup> Katelynn's Principle puts children at the centre of decisions affecting them. It was the first recommendation of the jury in the Ontario coroner's inquest into Katelynn Sampson's death. The inquest report can be found at: [https://jfcy.org/wp-content/uploads/2016/04/KatelynnSampsonInquest\\_JuryRecommendations.pdf](https://jfcy.org/wp-content/uploads/2016/04/KatelynnSampsonInquest_JuryRecommendations.pdf)

<sup>19</sup> *Civil Code of Québec*, CQLR c CCQ-1991, s 34.

<sup>20</sup> *Divorce Act*, RSC 1985, c 3, s 16(3)(e); *Family Services Act*, SNB 1980, c F-2.2, s 1, 6(4); *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>21</sup> *Divorce Act*, RSC 1985, c 3, s 16(3)(e); *Parenting and Support Act*, RSNS 1989, c 160, s 18(6); *United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

<sup>22</sup> Under the *Costs and Fees Act*, it is possible to seek cost recovery of VCRs in Nova Scotia. See: <https://www.nsfamilylaw.ca/children/voice-child-reports/voice-child-report-guidelines>

however, the child's views are not determinative in the court's decision. Another theme identified in approximately one third of the cases was the strengths and limitations related to VCRs (5/13; 38%). In the majority of cases, it was perceived that VCRs were a way to respect the children's views. In other words, the child has voice, but not a choice in the decision-making process.

### Prince Edward Island: Process and Procedures for VCRs

In Prince Edward Island, publicly-funded social workers provide parenting assessments and non-evaluative VCRs.<sup>23</sup> Parents and the child's legal representative from the Office of the Children's Lawyer<sup>24</sup> can also request a VCR. The children are typically between 10-13 years of age. VCRs consist of two interviews with the child, with no confidentiality guaranteed and no follow-up with the child once the report is completed and submitted to the court.

There was only one reported case in 2022 that mentioned VCRs. However, interviews with participants anecdotally reported that there has been a significant increase in the number of VCRs being ordered<sup>25</sup> since the change in the *Children's Law Act*, which came into force at the same time as the *Divorce Act* in March 2021.

### Newfoundland & Labrador: Process and Procedures for VCRs

In Newfoundland and Labrador, VCRs are provided by publicly-funded social workers and are non-evaluative. They are court-ordered and only for children over the age of 12 years. They consist of two interviews, but sometimes, depending on the age of the child and family law issues, there can be an additional interview. There is no confidentiality provided to the child and there is no follow-up once the report is completed. There is a standardized template that the social workers complete to report the views and preferences of the child.

Of the six family law cases in the case law review, none specifically identified a VCR report. The average age of the child in the cases was 13 years of age. A similar theme identified in approximately two thirds of the cases was that the child's age and maturity was an important factor to consider when including the child's perspective within a case. VCRs were perceived to be independent and often an appropriate and necessary step in determining the views of the child, which should be given serious consideration.

### Yukon: Process and Procedures for VCRs

Only family case law was reviewed in the Yukon. Of the three reported family law cases, the average age of the child involved was six years of age. While there were no emerging themes found due to the small sample size, each of the three cases raise themes similar to those raised in other provinces and territories. These themes were: a child's age and maturity is important when having their views heard; identification of Acts/Laws/Cases that refer to hearing from children; and the importance of child legal representation to allow for a child's voice to be heard.

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<sup>23</sup> *Children's Law Act*, RSPEI 1988 c C-6.1, s 33(4).

<sup>24</sup> *Judicare Act*, RSPEI 1988, c J-2.1, s 33.1(8)(i).

<sup>25</sup> While participants noted that there has been an increase in VCRs being ordered, this did not show up in the case law reviewed. This may be explained by the fact that VCRs can be ordered in family law cases that do not end in a written decision, as parties may choose to settle or may not require a written decision.

## Northwest Territories: Process and Procedures for VCRs

The Northwest Territories only provides child legal representation to children in child protection matters and some family law disputes.<sup>26</sup> The Office of the Children’s Lawyer does not provide VCRs. However, their Policy Manual notes that VCRs will be provided by publicly-funded social workers in the future.

## Nunavut: Process and Procedures for VCRs

In Nunavut, legal aid provides a lawyer to obtain the child’s views. There are no VCRs available in this jurisdiction.

## Conclusion

It is important to note four major findings that are consistent across the different methodologies used and the jurisdictions. The first is that the courts find VCRs to be very helpful, as they allow parents to hear the child’s perspective from a neutral, third-party professional, help courts to obtain information about the perspective of the children, provide missing information that is otherwise not presented, and have a quick turnaround time. The second main finding is that where VCRs are available, the majority of jurisdictions provide publicly-funded VCRs by professionals with a background in mental health. The third major finding is that there is no follow-up with children once the VCR is submitted to the court. The fourth and final finding is that none of the jurisdictions guarantee confidentiality to the children during the interview process. For more information, please see Annex A.

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<sup>26</sup> Only one reported case from the Northwest Territories in the case law review mentioned VCRs.

## References

### Literature

- Birnbaum, R. and Saini, M. 2012a. "A qualitative synthesis of children's participation in custody disputes." *Journal of Social Work Research Practice*, 22(4), 400–409.
- Birnbaum, R. and Saini, M. 2012b. "A scoping review of qualitative studies on the voice of the child in child custody disputes." *Childhood*, 20(2), 260–282.
- Birnbaum, R., Bala, N. and Boyd, J-P. 2016. "The Canadian experience with Views of the Child Reports: A valuable addition to the toolbox?" *International Journal of Law, Policy and the Family*, 30(2), 1–21.
- Braun, V. and Clarke, V. 2006. "Using thematic analysis in psychology." *Qualitative Research in Psychology*, 3(2), 77–101.
- Eekelaar, J. 2015. "The role of the best interest's principle in decisions affecting children and decisions about children." *The International Journal of Child Rights*, 23(1), 3–26.
- Holt, S. 2016. "The voice of the child in family law: A discussion paper." *Children and Youth Services Review*, 68(4), 139–145.
- McCarty, E. and Hyman, M. 2018. "Children's views and preferences in mobility/relocation cases: How important are they and how do you get them?" *Canadian Family Law Quarterly*, 37(2), 77–99.
- Quigley, C. and Cyr, F. 2017. "Children's perspectives on parenting coordination: Insights from the Montreal Parenting Coordination Pilot Project." *Journal of Child Custody: Research, Issues, and Practices*, 14(2-3), 151–174.
- Tippett-Leary, L. 2017. "Voice of the Child in Court Proceedings." Ottawa, ON: Department of Justice Canada. Available at: <https://www.justice.gc.ca/eng/rp-pr/fl-lf/divorce/vccp-vecp/voi2a.html>.
- Walker, J. and Misca, G. 2019. "Why listening to children and young people is important in family justice." *Family Court Review*, 57(3), 375–386.
- Yasenik, L. A. and Graham, J. M. 2016. "The continuum of including children in ADR processes: A child-centered continuum model." *Family Court Review*, 54(2), 186–202.

### Legislation

- Child Youth & Family Services Act*, SO 2017, c 14, Sch 1, s 74(3).
- Children's Law Act*, RSPEI 1988 c C-6.1, s 33(4).
- Children's Law Reform Act*, RSO 1990, c C.12, s 24(4), 30.
- Civil Code of Québec*, CQLR c CCQ-1991, s 34.
- Courts of Justice Act*, RSO 1990, c C.43, s 112.
- Divorce Act*, RSC 1985, c 3 (2nd Supp.).
- Family Law Act*, SA 2003, c F-4.5, s 18(2)(b).
- Family Maintenance Act*, CCSM c P10, s 2(1), 39(2.1)(j).

*Family Services Act*, SNB 1980, c F-2.2, s 1, 6(4).

*Hague Convention on the Civil Aspects of International Child Abduction*, 25 October 1980, Hague XXVIII (entered into force 1 December 1983).

*Judicare Act*, RSPEI 1988, c J-2.1, s 33.1(8)(i).

*Parenting and Support Act*, RSNS 1989, c 160, s 18(6).

*United Nations Conventions on the Rights of the Child*, 20 November 1989, UNTS No. 27531 (entered into force 2 September 1990).

## Annex A

Table 1: Who Prepares the VCRs By Jurisdiction? (n=30/33; 91%)<sup>27</sup>

Jurisdiction	Mental Health Professionals*	Legal Advisers	Social Workers	Family Justice Professionals	Other**
BC	Yes		Yes	Yes	Yes
AB	Yes	Yes	Yes		
SK	Yes		Yes	Yes	
MB	Yes			Yes	Yes
ON	Yes		Yes		
NS	Yes		Yes	Yes	Yes
PEI	Yes		Yes		
NWT			Yes***		

\* Some jurisdictions separate social workers from psychologists when referring to mental health professionals.

\*\* Other refers to The Aulneau Centre and trained individuals without specifying who they are.

\*\*\* Note that social workers in the Northwest Territories currently do not carry out VCRs but it is anticipated that, in the future, social workers will prepare VCRs.

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<sup>27</sup> Survey participant responses across jurisdictions except for Quebec, New Brunswick, Newfoundland & Labrador, Yukon, and Nunavut. As long as one participant from the identified jurisdiction mentioned the professional, it was checked off.

Table 2: Other Methods to Include the Voice of the Child by Jurisdiction (n=33/33; 100%)<sup>28</sup>

Jurisdiction	Other Methods to Obtain the Child/ren’s Voice	Who Prepares/ Undertakes These Other Methods
BC	<ul style="list-style-type: none"> <li>• Children in Mediation: Service, whereby family mediators interview children and bring their views into the mediation process</li> <li>• Full S.211 Reports: Evaluative reports that are publicly-funded and provided by the Report Writers</li> <li>• Hear the Child Report: lawyer/mental health professional appointed under the <i>Family Law Act</i>. Private practitioners prepare non-evaluative VCRs for a fee.</li> <li>• Society for Children and Youth: Children’s lawyers appointed by consent and do not follow the test for the <i>Family Law Act</i></li> <li>• Children may speak directly to a judge under the <i>Family Law Act</i>, although this is not common</li> </ul>	<ul style="list-style-type: none"> <li>• Family Justice Counsellor Report Writers</li> <li>• Mediators</li> <li>• Lawyers</li> </ul>
AB	<ul style="list-style-type: none"> <li>• Judicial Interview</li> <li>• Lawyer request to provide a brief summary to the Court</li> <li>• Children’s lawyers: Involved as mediators or clinicians</li> </ul>	<ul style="list-style-type: none"> <li>• Lawyers</li> <li>• Clinicians (e.g., Social Workers, Psychologists)</li> </ul>
SK	<ul style="list-style-type: none"> <li>• Parenting Assessments</li> </ul>	<ul style="list-style-type: none"> <li>• Family Justice Services staff</li> </ul>
MB	<ul style="list-style-type: none"> <li>• Parenting Assessment Report</li> <li>• Appointment of Amicus on behalf of children: Very rare occurrence</li> </ul>	<ul style="list-style-type: none"> <li>• Court-appointed family evaluators</li> <li>• Legal Aid counsel</li> </ul>
ON	<ul style="list-style-type: none"> <li>• Child Legal Representation</li> <li>• Child Legal Representation with assist</li> <li>• Full Evaluative Reports: Children interviewed at length</li> </ul>	<ul style="list-style-type: none"> <li>• Lawyers</li> <li>• Mental health professionals (e.g., social workers, psychologists)</li> </ul>

<sup>28</sup> Survey participant responses across jurisdictions except for Quebec, New Brunswick, Newfoundland & Labrador, and Yukon.

Table 2 cont'd: Other Methods to Include the Voice of the Child by Jurisdiction (n=33/33; 100%)<sup>29</sup>

Jurisdiction	Other Methods to Obtain the Child/ren's Voice cont'd	Who Prepares/ Undertakes These Other Methods
NS	<ul style="list-style-type: none"> <li>Youth obtain legal counsel or have a litigation guardian appointed</li> <li>Parties obtain third-party professionals outside of court, such as counsellors/therapists</li> <li>Child's Need Assessment</li> <li>Custody and Access Assessments: Assessor provides a recommendation to the parents for a schedule to implement</li> <li>Parental Capacity Assessments: Psychological testing, Child's Preference</li> <li>Hearsay Rule: A court may make an exception to the hearsay rule and allow a parent to testify about what their child has said about their preferred parenting arrangements. The court will consider whether the evidence is reliable by considering the circumstances under which the child's statement was made.</li> <li>Guardian ad litem: Specified custody and access reports</li> <li>Judicial Interview</li> <li>Mental Health Assessment for a Child: Include some of the child's views</li> </ul>	<ul style="list-style-type: none"> <li>Court</li> <li>Parties themselves</li> <li>Approved list of assessors</li> <li>Psychologists</li> <li>Social Workers</li> <li>Counsellors</li> <li>Teachers</li> <li>Friends</li> </ul>
PEI	<ul style="list-style-type: none"> <li>Parenting Arrangement Assessments: Evaluative</li> <li>Office of the Children's Lawyer provides child legal representation</li> <li>Child Protection file reports: Include statements children made to child protection</li> </ul>	<ul style="list-style-type: none"> <li>Clinicians who also complete Views of the Child reports</li> <li>Office of the Children's Lawyer</li> </ul>
NWT	<ul style="list-style-type: none"> <li>Office of the Children's Lawyer</li> <li>Request for a lawyer for a child or youth: Allows summary advice</li> </ul>	<ul style="list-style-type: none"> <li>Child legal representation</li> </ul>
NU	<ul style="list-style-type: none"> <li>Court will order Counsel to be appointed for the purposes of advancing the child's interests in the matter</li> </ul>	<ul style="list-style-type: none"> <li>Legal Aid lawyers</li> </ul>

<sup>29</sup> Survey participant responses across jurisdictions except for Quebec, New Brunswick, Newfoundland & Labrador, and Yukon.



Table 3: Case Law Summary Data from All Jurisdictions Across Canada by Selected Variables

Jurisdiction	# of Cases	# of Children Identified	Average Age of Children (years)	Gender of Children		Majority Type of Expert Evidence Identified	Majority Type of Service	Professionals Testified in Court
				F	M			
BC	72	138	11.45	65 51%	63 49%	Psychologist	VCRs	10/60
AB	25	44	10.86	25 60%	17 40%	Psychologist	N/A	4/11
SK	14	23	12.48	10 50%	10 50%	Psychologist	VCRs	0/12
MB	10	13	12.23	7 58%	5 42%	Other	N/A	1/6
ON	113	198	11.30	87 49%	91 51%	s.112	N/A	25/110
QC	1	5	10.8	3 60%	2 40%	N/A	N/A	N/A
NB	28	62	10.18	35 60%	23 40%	Other	VCRs	9/26
NS	13	23	12.77	13 65%	7 35%	Other	VCRs	0/14
PEI	1	3	8.67	N/A	N/A	N/A	N/A	0/1
NL	6	8	12.63	5 63%	3 38%	Other	Other	0/6
YT	3	6	10	2 67%	1 33%	N/A	N/A	N/A
NWT	1	5	10.8	3 60%	2 40%	N/A	N/A	N/A
NU	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A