

Juristat article

Family law cases in the civil courts, 2012/2013

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- | | |
|----------------|--|
| . | not available for any reference period |
| .. | not available for a specific reference period |
| ... | not applicable |
| 0 | true zero or a value rounded to zero |
| 0 ^s | value rounded to 0 (zero) where there is a meaningful distinction between true zero and the value that was rounded |
| p | preliminary |
| r | revised |
| x | suppressed to meet the confidentiality requirements of the <i>Statistics Act</i> |
| E | use with caution |
| F | too unreliable to be published |
| * | significantly different from reference category ($p < 0.05$) |

Family law cases in the civil courts, 2012/2013: highlights

- There were almost 318,000 family law cases active in the eight provinces and territories reporting to the Civil Court Survey in 2012/2013. Family law cases accounted for 34% of all civil court cases.
- Family law cases, on average, involve more court events (such as documents filed, hearings and judgments) than other civil court cases. They accounted for nearly half of court events in 2012/2013, including 56% of judgments, although they only represented 34% of all civil court cases. In particular, family law cases involving custody, access, child support and child protection involved higher than average court activity.
- Court activity for family law cases drops off considerably after the first three months. Overall, 43% of family law cases initiated in 2008/2009 reported no activity (court events) after the first three months. Nearly three-quarters (74%) reported no activity after the first year.
- Nearly one-quarter of family law cases (22%) were active during a second year. In the fourth year after initiation, 5% of family law cases initiated in 2008/2009 reported activity; 41% of these were returns to court, having reported no activity during the previous year.
- Cases involving custody, access or child support showed a drop in court activity after the first three months, but tended to remain active longer than other types of family law cases. Of cases initiated in 2008/2009, 61% of custody/access and 70% of cases involving only child support reported no activity after the first year.

Family law cases in the civil courts, 2012/2013

by Mary Allen

The civil court system in Canada deals with family law cases as well as a wide variety of other civil issues such as lawsuits and contract disputes. Every year, families make use of the civil court system to resolve issues related to family breakdown, including, divorce, separation, child custody, access and support, and other family issues. Concerned with the burden and costs of family law court cases (on both families and courts), federal, provincial and territorial governments have put in place an increasing number of family justice services to help couples come to agreement without having to go to court, or if need be, to help them through the court process. These include parent information programs and centres, mediation and alternate dispute resolution. In addition, the federal government publishes Child Support tables based on federal and provincial guidelines to help families calculate standard child support amounts. In spite of the increased availability of these services, there is still concern that family law court cases are complex and lengthy and comprise a substantial amount of civil court activity.¹

Using information from the Statistics Canada Civil Court Survey (CCS), this *Juristat* article looks in more detail at the activity of different types of family law cases within the civil court system.² The first part of the report looks at the characteristics of family law cases active in 2012/2013. The second part of the report then examines the court activity (documents filed, hearings and judgments) of different types of family law cases over time, examining the activity of cases initiated in 2008/2009.

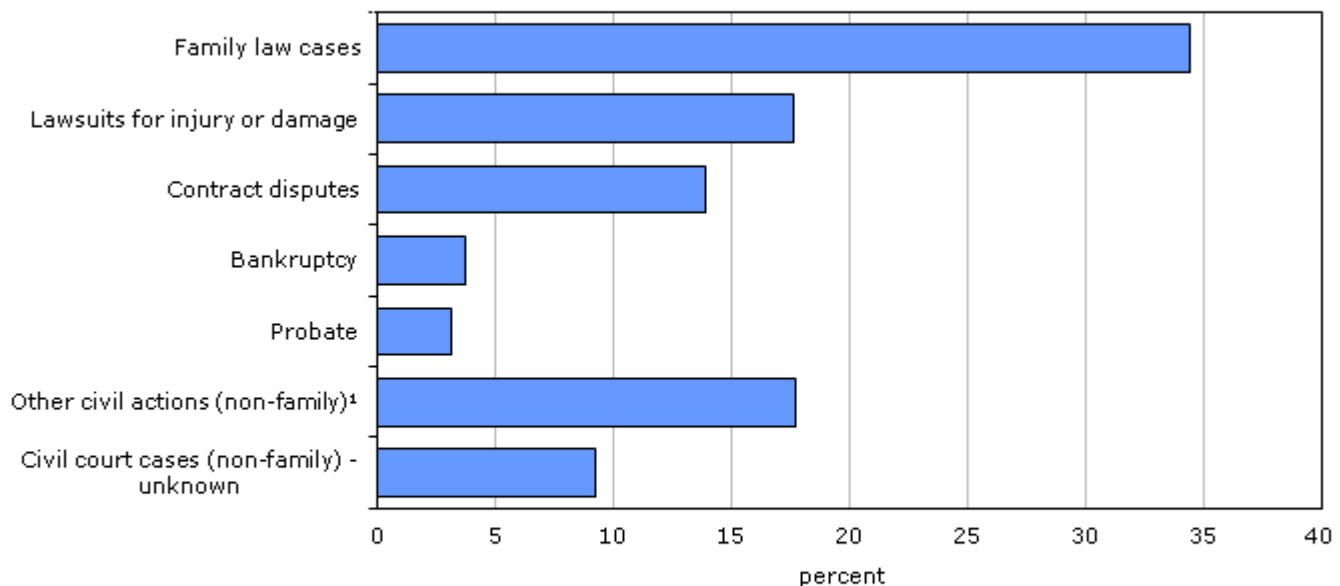
It is important to note that court activity will vary for different types of cases. The fact that a case involves many court events or continues to be active may be a function of the type of case (e.g. adoption compared to a complex divorce or separation), the individual family circumstances, or the number of issues that a case needs to address, and not a function of the court process itself.

Information on cases active in 2012/2013 is available for eight provinces and territories reporting to the Civil Court Survey: Nova Scotia, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut as well as some courts in New Brunswick.³

Text box 1 Civil court activity

In 2012/2013, there were 922,411 civil court cases active in the eight provinces and territories reporting to the Civil Court Survey (Table 1). Two-thirds of cases consisted of general civil actions (non-family), including contract disputes, lawsuits for injury or damage, bankruptcy, and probate, among others. Lawsuits for injury or damage and contract disputes were the most common issues in non-family civil court cases (Chart 1).

Chart 1
Distribution of civil court cases by type, selected provinces and territories, 2012/2013



1. Other civil actions include enforcement, administrative law cases, civil protection among others, including non-family cases with unspecified issues.

Note: Based on information provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

There were 2% fewer civil court cases in 2012/2013 than in the previous year, continuing a downward trend in the active civil court caseload since a peak in 2009/2010.⁴ Between 2009/2010 and 2012/2013, there was a 4% decline in the total number of active civil court cases. This was driven by a drop in new cases; there were 9% fewer new cases initiated in 2012/2013 than in 2009/2010.

General civil court (non-family) cases tend to involve less court activity (documents filed, hearings or judgments) than family law cases. In 2012/2013, general civil court cases averaged 6.4 court events per case, including 0.8 judgments.⁵ By comparison, family law cases averaged 11.1 court events, with 1.9 judgments (Table 2). General civil court cases were as likely as family law cases to remain active into a second year (21%) and beyond. However continued levels of activity beyond the second year were lower among general civil court cases relative to family law cases, especially those involving child-related issues (Table 3).

Text box 2 Family law cases

Custody/access: The two main aspects that are addressed in cases involving custody are legal custody, or who will make decisions about a child (e.g. religion, education, health), and physical custody, or where the child will reside. Legal custody is separate from the determination of living arrangements (physical custody).

Access decisions determine how and when non-custodial parents visit and maintain contact with their children. It also includes the determination of time parents spend with children in situations where parents share joint legal custody.

Custody and access cases can also involve non-parents, most commonly grandparents and other relatives.

For this analysis, custody/access refers to all cases where access or custody (either physical or legal) have been identified as issues. These may involve other family issues such as child support, but do not include cases involving child protection. Cases involving custody or access as well as child protection are classified as child protection cases.

Child-support (only): This category includes all cases where child support is the only child-related issue identified.

Child protection: Child protection cases involve government application to the court in order to determine whether a child is in need of protection due to maltreatment. The end result of such cases range from the parents being supervised by a child protection agency to children being placed into government care. It is important to note that child protection cases do not usually involve issues related to separation or divorce.

All cases where child protection is identified as an issue are included in this category. These cases may also identify additional issues usually related to access or custody, but these are generally unrelated to family breakdown.

Uncontested divorce: While many family breakdown issues can be resolved without going to court, divorce always requires a court order. Therefore, many divorce cases end up in court solely for the purpose of dissolving the legal marriage, with other issues previously being dealt with in a separation agreement. The uncontested divorce cases examined here are those divorce cases with no child-related or spousal support issues identified and for which there has been no statement of defence submitted. They may, however, involve some cases with issues related to property division as information on property issues was not fully identified in all jurisdictions and could not, therefore, be used in identifying the simplest uncontested divorce cases.

Adoption: Adoptions involve the legal transfer of parental rights over a child. Adoption processes may differ by type of adoption as well as by province and territory. In all cases, however, they require an adoption order from the court.

Other family law cases: Include guardianship, parentage, parental support, enforcement, estate matters (within the context of family matter) and other family issues as well as contested divorce and separation cases not involving child-related issues and cases where issues have not yet been recorded.⁶

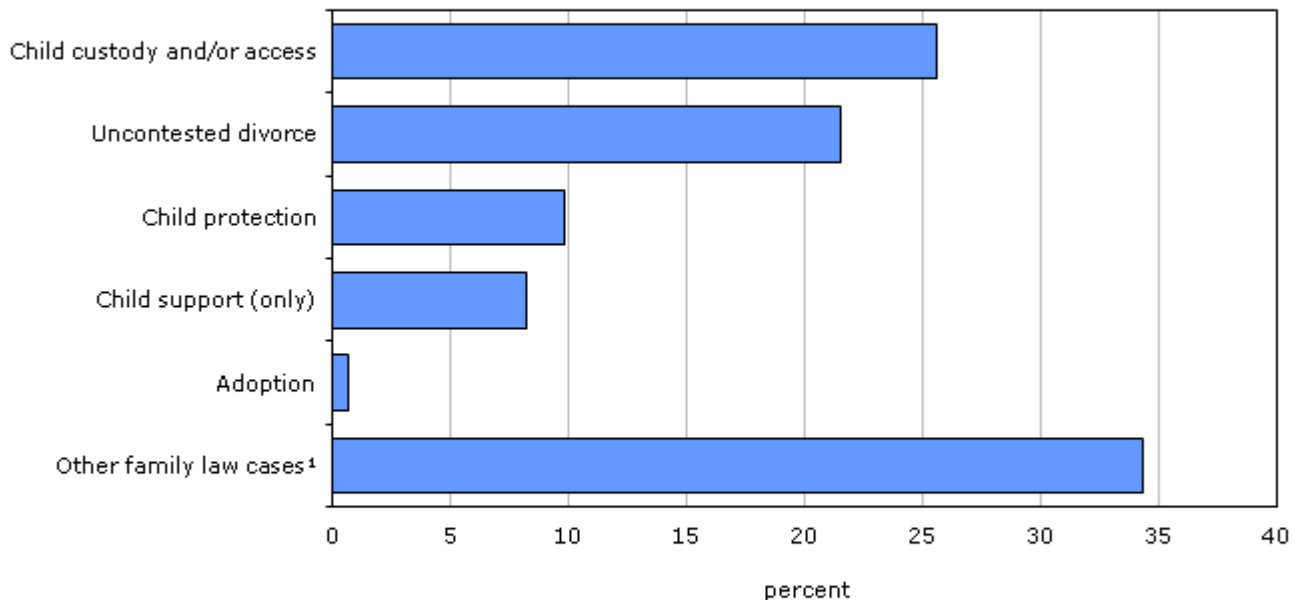
Family law court activity in 2012/2013

In 2012/2013, there were about 318,000 family law cases active in Canadian civil courts in the provinces and territories reporting to the Civil Court Survey, almost 2% fewer than the previous year.⁷ They accounted for 34% of all civil court cases.

About one-quarter of the family law cases active in 2012/2013 involved issues of child access or custody (Chart 2).⁸ Many of these custody/access cases (51%) also involved child support. Cases identifying child support as the sole child-related issue accounted for 8% of all family law cases, while uncontested divorce cases with no child or spousal support issues made up another 22%, child protection 10% and adoption 1%.⁹

About one-third of family law cases were classified as “other family-related”. This includes cases where no issues have yet been identified, as well as contested divorce and separation (with no child-related issues), property division, parentage, guardianship, estate matters, etc.

Chart 2
Distribution of family law cases, by type, selected provinces and territories, 2012/2013



1. Other family cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others. Two-thirds of these cases were recorded as some other family matter not specifically identified.

Note: Based on information provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

Just over one-third (36%) of all family law cases in 2012/2013, representing 12% of all civil court cases, involved divorce. The majority of these were uncontested divorces with no issues related to children or spousal support (60%).¹⁰ Another 19% involved issues related to child custody, access or child support. The remainder (21%) were contested divorces where no child issues had been identified (included as “other family”). These may involve issues around spousal support and property division.

An important focus of this report is on all cases involving child issues of custody, access and child support, whether or not the case involves divorce. As a result, cases involving divorce are not examined as a separate group.

Text box 3

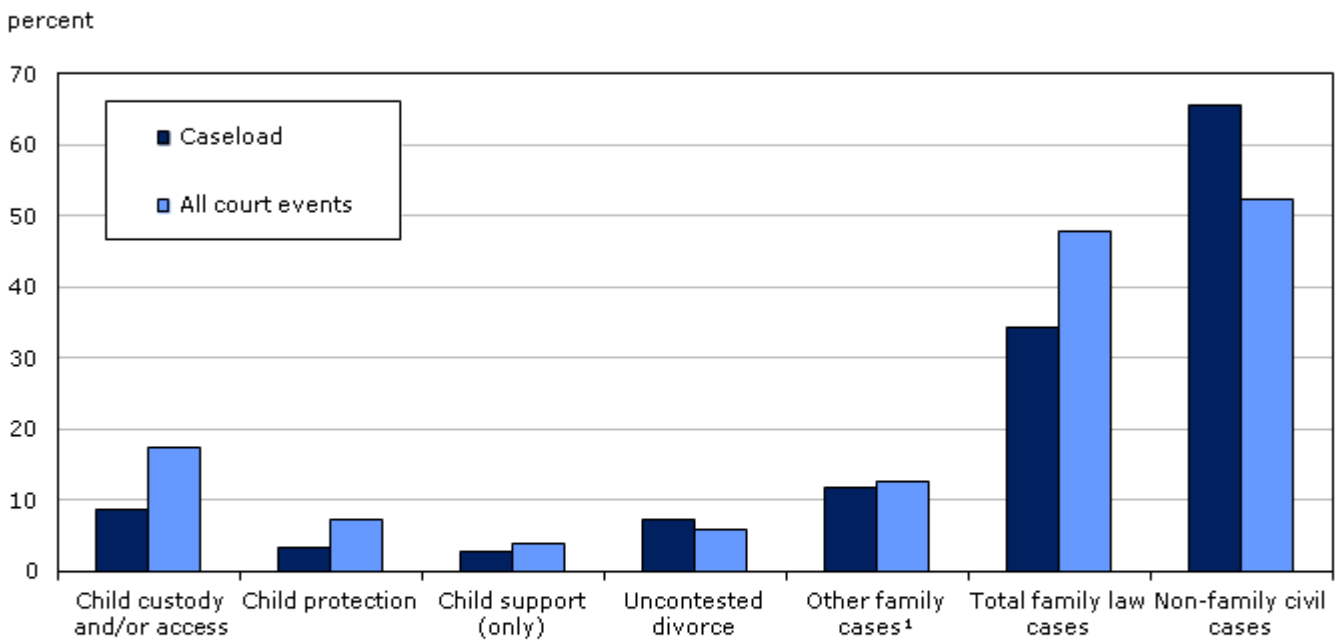
About one-quarter of separated or divorced Canadians have judge-ordered arrangements on child-related issues

In general, the majority of separating families do not make use of the courts to address the issues that affect their children. According to the 2011 General Social Survey on Families, many separated individuals had no written arrangement with respect to these issues, but had only a verbal arrangement or no arrangement at all.¹¹ Some respondents had prepared written agreements on their own or with the assistance of a lawyer, and others made use of family justice services such as mediation and alternative dispute resolution. About one-quarter of respondents had a judge-ordered arrangement determining the children’s primary residence or child support, and 18% of respondents had a judge-ordered arrangement related to time spent with children (Allen 2013).¹²

While family law cases comprised one-third of civil cases, they accounted for nearly half of court events

While family law cases comprised one-third of civil court cases, they accounted for nearly half of all civil court events in 2012/2013, including 56% of judgments and 61% of hearings (Chart 3, Table 2). In particular, custody/access cases, which comprised 9% of all civil court cases, involved more court events than other types of family law cases, accounting for 18% of all civil court events in 2012/2013, and 24% of judgments. Child support cases also involved higher than average amounts of court activity.

Chart 3
Distribution of civil court caseload and court events by type of case, selected provinces and territories, 2012/2013



1. Other family cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others. Two-thirds of these cases were recorded as some other family matter not specifically identified.

Note: Based on information provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick. Court events include case initiation, processing events such as document filings and hearings, and disposition events where all or part of a case is disposed of, including judgements, settlements, withdrawals, and dismissals. Adoptions are not included in this chart due to small numbers.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

Child protection cases follow the same pattern, involving a higher than average amount of court activity. While they comprised 3% of active civil court cases in 2012/2013, they accounted for 7% of court events, including 10% of judgments and 14% of hearings. Child protection cases had, on average, the most court events per case in 2012/2013. This is related in part to the fact that they are predominantly newly initiated cases (60%). Other child-related cases tend to be older. In fact, looking only at cases newly initiated in 2012/2013, custody/access cases tend to involve slightly more court events on average than child protection cases.

Text box 4

Classification of family law cases

Cases are classified in this analysis based on the issues identified on the case file.¹³ Issues are identified as they arise over the life of a case. As a result, the category of a case may change over time. In particular, some cases in the first fiscal year of the cases may have no specific issues identified and are classified to "Other family". This is particularly true for cases in Ontario where information on issues is not recorded directly, but is determined by the outcome of cases as recorded in judgments. In addition, divorce cases initiated late in the fiscal year may not be reported as contested if a statement of defence is not filed until the next fiscal year.

For this reason, the distribution of cases by issue in 2012/2013 likely overestimates the number of cases categorized as "other family" or "uncontested divorce" because relevant information on issues involved is not yet available. The analysis in the second part of the *Juristat* examining cases initiated in 2008/2009 is based on all the issues identified over the life of the case up to the most recent fiscal year of the case. As a result, fewer of the 2008/2009 cases in this analysis are classified to "other family" and "uncontested divorce".

The issue categories used in this report were developed for this specific analysis and differ from categories used in CANSIM table 259-0012.

Measures of court activity

A case is considered active in any period when there are any court events reported on the case file for that time period. Court events include case initiation, processing events such as document filings and hearings, and disposition events where all or part of a case is disposed of, including judgments, settlements, withdrawals, and dismissals.

Although a case is determined as "active" when any court events are reported in a specific time period, this analysis focuses on the number of documents filed, hearings and judgments, as well as settlements, withdrawals and dismissals. The number of documents filed includes any document filed or registered with, or issued by, the courts. Documents include applications, statements of claim, statements of defense and counterclaims, separation and support agreements, parenting plans, mediation reports and financial statements, court orders and divorce certificates, among others.

Court activity of family law cases initiated in 2008/2009

Given concerns about the amount of court activity involved with family law cases and the length of time they stay active, it is useful to consider the "lifecycle" of the different types of family law cases over time. Different types of family law cases will involve different amounts and types of activity because of the nature of the issues involved. Complex cases with multiple issues, involving custody, access and support, for example, involve more court activity over time than uncontested divorces. In addition, some types of cases are more likely to be reactivated when a family returns to court to resolve a new issue, such as the need to amend child support or access agreements.

This section of the report examines the various types of family law cases initiated in 2008/2009, focusing on the amount and nature of court activity for each type. In order to chart the activity of cases over time, court events were classified into different time periods relative to the date of initiation: the first three months of the case (90 days after initiation), the fourth to six months after initiation (91 to 180 days), the second half of the first year (181 to 365 days), and the second, third and fourth years of the case. The analysis looks at

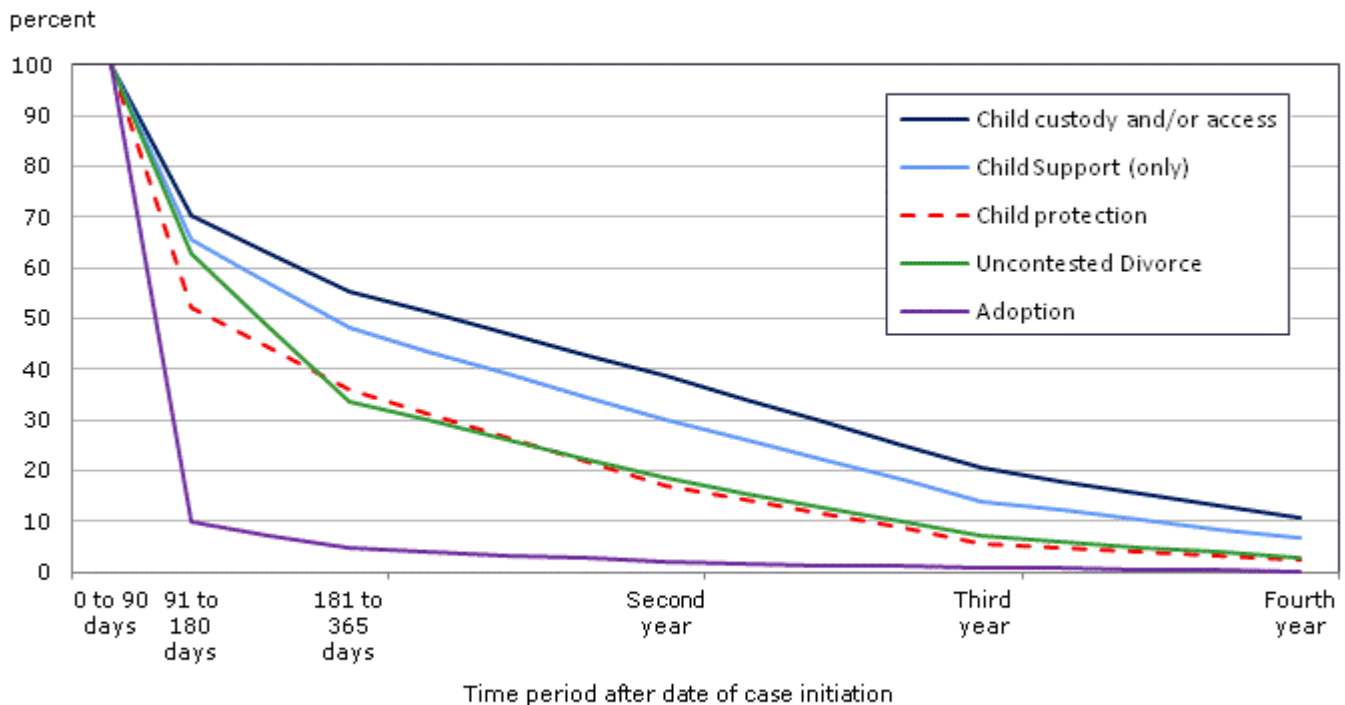
the percentage of cases active in each of these periods as well as the amount of documents filed, hearings and judgments in each time period. This approach identifies periods of inactivity in the case where no events have been reported.

This analysis of cases initiated in 2008/2009 is limited to jurisdictions reporting to the Civil Court Survey at that time: Nova Scotia, Ontario, Alberta, British Columbia, Yukon, Northwest Territories and Nunavut.¹⁴

Activity of family law cases drops off after the first three months

For family law cases of all types, in the reporting jurisdictions, court activity drops off after the first few months following initiation. Overall, 43% of family law cases initiated in 2008/2009 reported no court activity (events) after the first 90 day period. Nearly three-quarters (74%) reported no events after the first year. This differs notably by type of case (Chart 4). Adoption cases were dealt with quickly with 90% reporting no activity after the first 3 months. By comparison, 30% of custody/access and 34% of child support (only) cases had no further activity after the first 90 days. Cases involving custody/access and child support (only) were the most likely to report activity after the first year.

Chart 4
Percentage of family law cases active or dormant in each period after initiation, cases initiated in 2008/2009



Note: Based on information provided by Nova Scotia, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Includes all cases either active or dormant in each period. Excludes cases with no further activity. Dormant cases are inactive cases with court events reported in later periods.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

During the fourth year after initiation, 5% of family law cases reported court activity. Overall, by the end of the fourth year, 2% of family law cases had been active in all time periods examined (Table 3). Most of the cases still active in year four, however, had previous periods with no court activity. In fact, of those cases active in year four, 41% were recent returns to court, having reported no activity throughout the third year after initiation.

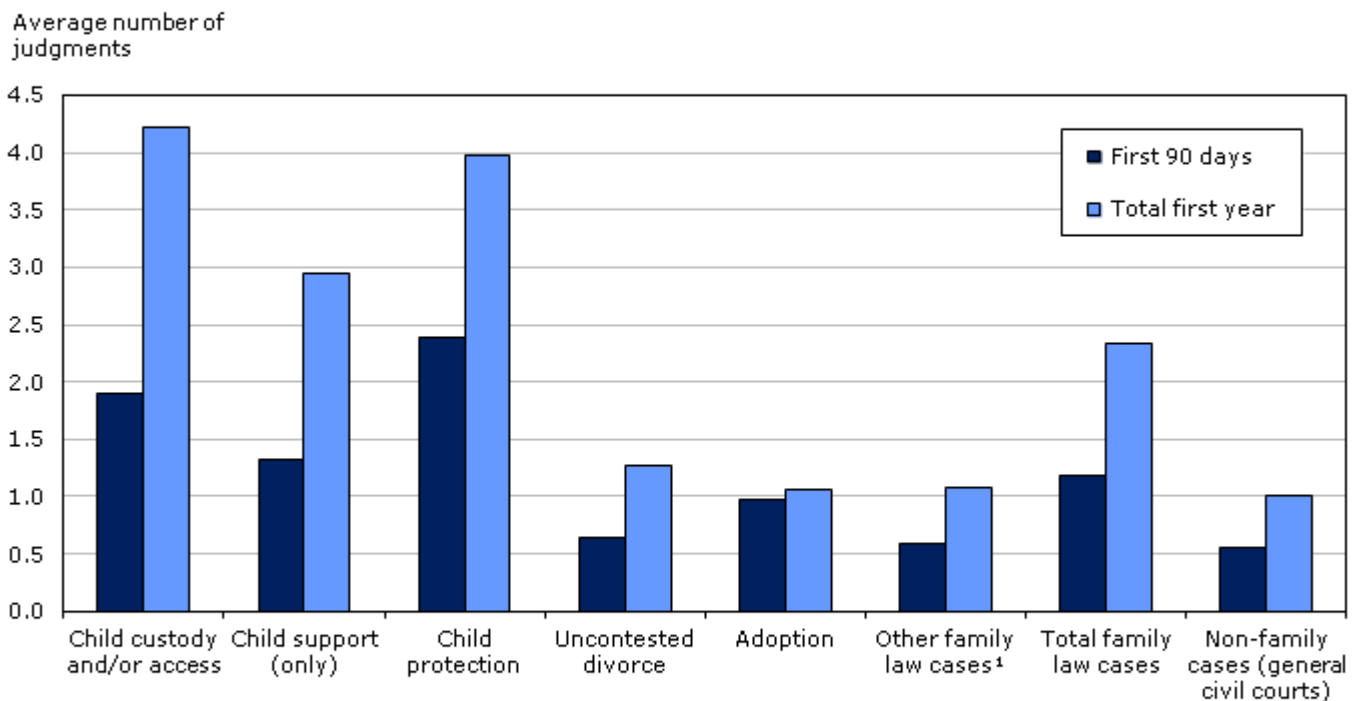
Custody/access cases tend to remain active in the court system longer and involve more court activity than other family law cases

As previously noted, custody/access cases involve more court activity and tend to remain active longer relative to other types of family law cases. In the first three months after initiation in 2008/2009, almost two-thirds of cases involving custody and/or access (63%) had a judgment (Table 3). On average, these cases had 1.9 judgments in the first three months and 7% had a settlement, withdrawal or dismissal. It is worth noting that these cases generally involve more than one issue and consequently more than one judgment. For example, a case involving divorce or separation may involve separate judgments for custody, access and support as well as a divorce order. Additional judgments may result if a case returns to court.

Over half (57%) of custody/access cases remained active in the fourth to sixth month after initiation. Two-thirds of these had a judgment (65%) during this period with an average of 2 judgments. For the 46% active in the second half of the first year after initiation, there was generally more activity; 70% had a judgment in the second half of the year, averaging 2.6 judgments. This higher level of activity for cases which stay active longer may be a reflection of more complex cases involving multiple issues.

Overall, 85% of custody/access cases initiated in 2008/2009 had a judgment in the first year, with an average of 4.2 judgments (Chart 5). About one in ten (11%) had a settlement, withdrawal or dismissal. On average, there were 3.2 hearings per case during the first year.¹⁵

Chart 5
Average number of judgments for active cases during the first year after initiation, selected provinces and territories, cases initiated in 2008/2009



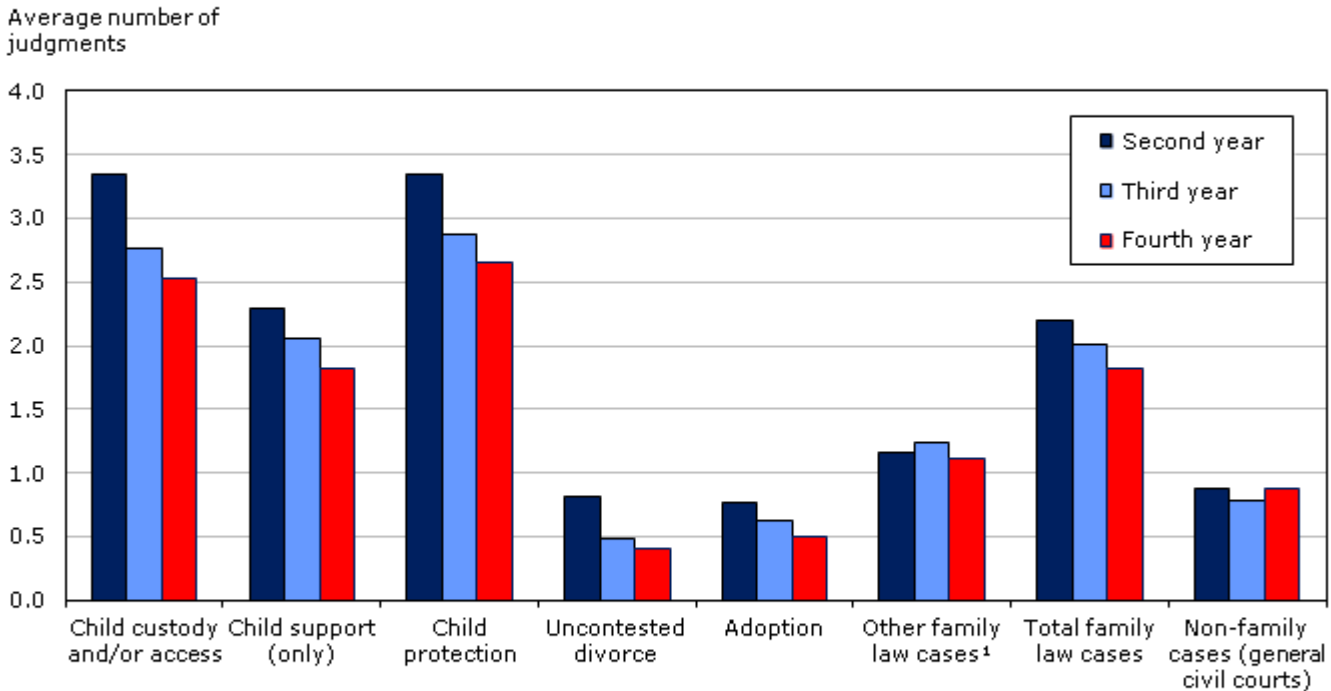
1. Other family law cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others.

Note: Based on information provided by Nova Scotia, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Average number of judgments is for those cases reporting court events during the period examined.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

Custody/access cases which remained active into the second year and later (for cases initiated in 2008/2009) involved more activity than family law cases which do not involve children (Chart 6). For the one-third of custody/access cases which were active in the second year after initiation, 72% had a judgment during this year, with an average of 3.3 judgments.

Chart 6
Average number of judgments for active cases, by number of years after initiation, selected provinces and territories, cases initiated in 2008/2009



1. Other family law cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others.

Note: Based on information provided by Nova Scotia, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Average number of judgments is for those cases reporting court events during the period examined.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

In the fourth year after initiation, 11% of custody/access cases reported court activity. Almost one-third of these (32% of those active in the fourth year) were returns to court after being inactive for at least the third year after initiation. Overall, 4% of custody/access cases were active in all the periods examined up to the end of the fourth year. Cases active in a fourth year were still fairly busy; 64% had a judgment, with an average of 2.5 judgments per case.

Cases identifying child support as the sole child-related issue also stay active longer than cases not involving child-related issues and involve greater activity

In total, just over one-fifth (21%) of family law cases in 2012/2013 involved child support, but 61% of these also involved custody or access issues and are categorized as such. This section examines only those cases where child support is the sole child-related issue identified in the case (8% of family law cases). These are referred to as child support (only) cases and may involve other non-child-related family issues such as spousal support.

Although child support (only) cases involve no other child-related issues, they still involve a higher level of court activity compared to family law cases not involving children. In the first three months after initiation in 2008/2009, 60% of child support (only) cases had a judgment, with an average of 1.3 judgments per case and 1.2 hearings. The percentage of cases with a settlement, withdrawal or dismissal in these first few months was similar to other child-related cases (5%).

Just over half (54%) of child support (only) cases stayed active in the four to six months after initiation, and 40% were active in the second half of the first year. By the end of the first year, 83% of cases had at least one judgment with an average of 2.9 judgments and 2.6 hearings (Chart 5). Nearly one in ten child support (only) cases (9%) had a settlement, withdrawal or dismissal.

About one-quarter (26%) of child support (only) cases were active in the second year after initiation, dropping to 12% in the third year and 7% in the fourth. These cases were the most likely to have periods of inactivity. In the fourth year, 2% had been continuously active in all the periods examined. About one-third (37%) of cases active in the fourth year had returned to court after reporting no activity in the third year.

Like other child-related cases, those remaining in the system had relatively high levels of activity, averaging about 2 judgments a year for those active in the second, third and fourth year after initiation (Chart 6).

Child protection cases have high court activity early in case

Given the nature of child protection cases, and the possible need to respond rapidly to protect a child, these cases tend to be very active early in the case. For the period three months after initiation, these cases are the most active of all family law cases; 89% had a judgment in those first few months, with an average of 2.4 judgments. Seven percent had a settlement, withdrawal or dismissal during this period.

In the first year after initiation, almost all child protection cases had a judgment (94%), with an average of 4.0 judgments (Chart 5). About one in ten (11%) had a settlement, withdrawal or dismissal during this period.¹⁶

While child protection cases were less likely than other child-related cases to continue past one year, those that did (16%) involved relatively high levels of activity in the second year (Chart 6). Of these, 71% had a judgment in the second year after initiation, with an average of 3.3 judgments per case. Five percent of cases were active in a third year and two percent in the fourth year after initiation. The majority of these cases had been continuously active in every period examined. For cases active in a fourth year, however, 40% were returns to court, having been inactive through at least the previous year. Again, cases active in the fourth year after initiation had relatively high levels of activity in these years compared to other family law cases of the same age.

Uncontested divorce cases involve relatively few court events compared to child-related cases

Unlike child-related cases, the majority of uncontested divorce cases initiated in 2008/2009 did not have a judgment in the first three months of the case. This may be related to the fact that divorce applications allow for minimum response periods to allow applications to be contested and there may be delays in the filing of documents. About four in ten (41%) of these cases were still active in the four to six months after initiation, and 21% in the second half of the first year. By the end of that year, 83% had a judgment (of some kind, not necessarily a divorce order), with, on average, 1.3 judgments (Chart 5).

The fact that there is, on average, more than one judgment per case indicates that there may be other issues involved such as property division for which information is not available or not reported. This may also explain why 14% of cases continued to be active in the second year, falling to 5% in the third and 3% in the fourth year. Some of these may also represent returns to court as virtually all of the cases active in the fourth year have had at least one previous period of inactivity.

Adoption cases moved relatively quickly through court

Adoption cases moved relatively quickly through the court system with less activity than other family law cases (Chart 5 and Chart 6). In the first three months of adoption cases initiated in 2008/2009, 79% had a judgment, with an average of 1.0 judgment per case. Very few cases remained active after the first three months; 6% in the four to six month period after initiation, and 4% in the remainder of the first year. This dropped to 2% in the second year and 1% in the third year. Moreover, the activity of these older cases was relatively low compared to other family law cases of the same age.

Summary

Family law cases report higher levels of activity than other civil court cases. Comprising 34% of all civil court cases in 2012/2013, family law cases accounted for nearly half of all civil court events, including 56% of judgments. Cases involving child-related issues such as custody/access, child support or protection involved the highest average levels of court activity.

While many family law cases were resolved quickly or had periods of inactivity before returning to court, those cases which were active in the second, third and fourth years after initiation had relatively high levels of activity. This was particularly true for cases involving custody/access and child support. While few child protection cases were still active after one year, those that did remain in or return to court had higher average levels of court activity than any other type of family law case of the same age.

Survey description

Civil Court Survey

In 2012/2013, the Civil Court Survey (CCS) included data for Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. These provinces and territories represented 68% of the Canadian population (Statistics Canada 2012). New Brunswick started reporting cases from the Judicial District of Moncton to the CCS in the third quarter of 2012/2013. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick. This may have an impact on the overall New Brunswick results.

The 2012/2013 survey collected information on civil court activity over the 2012/2013 fiscal year covering all court events between April 1, 2012 and March 31, 2013.

In addition to an examination of family law caseload in fiscal year 2012/2013, this report looks at the activity of cases initiated in fiscal year 2008/2009 in order to examine the activity of cases from initiation onward. The longitudinal analysis does not, therefore, provide a profile of the full caseload in any given fiscal year.

As noted in the text, cases are categorized according to the issues identified by the most recent year in which a case has reported activity. This means that more recent cohorts, such as cases newly initiated in 2011/2012, are more likely to be classified as "other family" or "uncontested divorce". The following table shows the difference in how the 2008/2009 cohort would be categorized using information from the first fiscal year of the case and information from the most recent fiscal year of the case (the method used in this analysis). The most recent year will differ by case depending on when the most recent activity for a case was recorded. For example, if a case initiated in 2008/2009 was active in 2012/2013, the issue will be based on information available in 2012/2013. For another case initiated in 2008/2009 with no further activity in later years, the issue for that case will be based on the information available in 2008/2009 (its most recent fiscal year).

Number of cases by method of categorization, cases initiated in 2008/2009

	First fiscal year	Most recent fiscal year	Difference
Custody/access	31,944	41,614	9,670
Child protection	20,199	20,292	93
Child support	9,824	12,525	2,701
Uncontested divorce	43,210	37,533	-5,677
Adoption	1,816	1,819	3
Other	69,106	62,316	-6,790

For the section of the report examining the family court cases over time, court activity is analysed within predetermined time periods. Inactivity is identified where there are no court events within a given period. For example, a case which is active at some point in the fourth year, but at no point in the third year, is identified as a "return" to court. In this instance, it can only be determined that the case was inactive throughout the previous one year period. It may be, however, that the case was inactive for a longer time if its last event was late in the fourth year and its previous court activity was early in the second year.

Reference to “years” in this section refers to the time period after initiation as described below, not to subsequent fiscal years following initiation.

Time periods for this analysis are determined by the number of days since case initiation:

Time period	Number of days
First 90 days (three months)	0 to 90 days
Second 90 days (fourth to sixth months)	91 to 180 days
Remainder (second half) of the first year	181 to 365 days
First year	0 to 365 days
Second year	366 to 730 days
Third year	731 to 1,095 days
Fourth year	1,096 to 1,460 days

Coverage for the survey has evolved over the years as new provinces and territories start to report. As a result, analysis of cases initiated in 2008/2009 does not include information from courts in New Brunswick.

Data for the Civil Court Survey are based on the administrative records of the civil court systems in the eight provinces and territories listed above. The collection of data is from administrative records stored in civil court automated information systems. Given that the data are derived from records originally kept for non-statistical purposes, complete survey information is not always available for all provinces and territories. For example, complete information is not available on custody or support judgments (type of custody or amount of support awarded). In particular, some provinces and territories may not be able to provide full information on secondary issues for a case. For example, information related to issues such as custody, access, support and property may not always be available from the court information systems and, as such, may be under-reported. The degree of under-reporting is unknown. Information is provided by province and territory to support analysis of individual provinces or territories. However, comparisons of data by province and territory are not recommended.

References

- Action Committee on Access to Justice in Civil and Family Matters. 2013. *Access to Civil & Family Justice: A Roadmap for Change*. Canadian Forum on Civil Justice. Ottawa.
- Allen, Mary. 2013. 'Profile of child-related family law cases in civil court, 2011/2012' *Juristat*. Catalogue no. 85-002-X. Ottawa.
- Statistics Canada. 2012. "Population and dwelling count highlight tables, 2011 Census." *Census: Population and Dwelling Counts*. Statistics Canada Catalogue no. 98-310-X.

Notes

1. A recent report for Supreme Court Chief Justice Beverly McLachlin called for reform of the family law system, citing, in part, the length and complexity of family law cases (Action Committee on Access to Justice in Civil and Family Matters 2013).
2. The Civil Court Survey collects information on court activity by fiscal year (events falling between April 1 and March 31 of the following year). For more information see Survey Description.
3. Data for 2012/2013 include data for the Judicial District of Moncton for the second half of the fiscal year. Overall, these cases represent approximately 25% of the cases in the Family Division for New Brunswick. Information on cases initiated in 2008/2009 excludes all cases from New Brunswick which started reporting to the survey in 2011/2012.
4. Excludes all court activity in New Brunswick which was not available for all years.
5. The average number of judgments includes those cases where there was no judgment reported in 2012/2013. This would include, for example, very new cases initiated toward the end of the fiscal year.
6. Two-thirds of these cases were recorded as some other family matter not specifically identified.

7. Information was provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick.
8. Cases involving both custody/access and child protection issues are classified as child protection.
9. Uncontested divorce cases are those with no issues related to child support, access, custody, or protection, as well as no issues related to spousal support. Information on issues related to property division is not available from all jurisdictions. As a result, some of these uncontested divorces may be cases with property judgments.
10. It is important to note that many cases may be classified as uncontested when they are first initiated, but then reclassified in the next fiscal year when more information is available or more activity occurs. This is particularly true for cases initiated at the end of the fiscal year for which a statement of defence is not filed until after the new fiscal year has begun. For this reason, there may be an overestimate of newly initiated uncontested divorce cases.
11. This analysis from the 2011 General Social Survey on Families is based on individuals who had separated or divorced in the previous 20 years and who still had children aged 18 or under at the time of the survey (Allen 2013).
12. In total, 66% of parents reported having some form of written arrangement for child support; 45% for time spent with children and 59% regarding the primary residence of the child (Allen 2013).
13. The survey requests information on issues related to the following: divorce, separation, guardianship, custody, access, child support, spousal/partner support, unspecified support, enforcement, property, parentage, child protection, adoption, and others. As the survey is extracted from available administrative files, it is important to note that not all jurisdictions are able to provide complete information on all issues.
14. The Northwest Territories started reporting to the survey in 2006/2007 and Alberta provided complete information starting in 2008/2009.
15. Hearings include trial hearings (before a judge) as well as appeal hearings, enforcement hearings and other hearing or conferences that move the case forward.
16. Cases with settlements, withdrawals or dismissals may also involve one or more judgments.

Detailed data tables

Table 1
Active civil courts cases, by type and selected province and territory, 2012/2013

Type of civil court case	N.S.	N.B. ¹	Ont.	Alta.	B.C.	Y.T.	N.W.T.	Nvt.	Total
	number								
Family cases	14,221	8,623	153,873	78,206	60,960	558	925	622	317,988
Access or custody (not involving child protection)	2,587	3,485	30,599	21,644	22,457	155	197	83	81,207
Child support (only)	343	2,360	9,163	6,359	7,834	4	25	13	26,101
Child protection	1,475	440	18,637	6,489	3,966	36	77	108	31,228
Total child cases	4,405	6,285	58,399	34,492	34,257	195	299	204	138,536
Uncontested divorce (with no other issues)	3,774	937	39,673	9,855	13,907	147	62	16	68,371
Adoption	0	83	1,386	.	476	8	10	135	2,098
Other family related ²	6,042	1,318	54,415	33,859	12,320	208	554	267	108,983
Non-family civil cases	21,202	9,501	329,518	120,319	121,844	815	855	369	604,423
Lawsuits for injury or damage	2,628	..	96,579	24,839	38,369	184	91	21	162,711
Contract disputes ¹	9,722	11	64,787	43,688	9,227	290	412	267	128,404
Bankruptcy	1,530	1,055	16,456	9,828	6,029	15	63	8	34,984
Probate	4,409	851	3,748	8,416	11,593	119	96	48	29,280
Other civil actions (non-family)	2,913	..	146,126	11,078	3,440	207	124	25	163,913
Civil court cases (non-family) - unknown	0	7,584	1,822	22,470	53,186	0	69	0	85,131
Total caseload	35,423	18,124	483,391	198,525	182,804	1,373	1,780	991	922,411
	percent								
Family cases as percentage of total caseload	40	48	32	39	33	41	52	63	34

. not available for any reference period

.. not available for a specific reference period

1. In New Brunswick, 'Contract disputes' represent Landlord/tenant disputes only. Information for other types of contract disputes is not available.

2. Other family related cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others. Two-thirds of these cases were recorded as some other family matter not specifically identified.

Note: Based on information provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

Table 2

Distribution of caseload and court events for active civil court cases, selected issues, by type of issue, by province and territory, 2012/2013

	Child custody and/or access	Child support (only)	Child Protection	Uncontested divorce	Adoption	Other family related issues ¹	Total family	Non-family	Total
Distribution of caseload									
percent									
Cases initiated prior to 2012/2013	12	3	3	6	0	10	34	66	100
Cases initiated in 2012/2013	6	2	4	9	0	13	35	65	100
Total active cases	9	3	3	7	0	12	34	66	100
Average number of court events²									
number									
Documents filed ³	7.0	5.0	6.8	4.2	2.9	5.0	5.5	3.9	4.5
Hearings ⁴	2.3	1.7	3.6	0.5	0.6	1.1	1.6	0.5	0.9
Judgments ⁵	3.2	2.1	3.4	1.0	1.0	1.0	1.9	0.8	1.1
All court events	16.0	11.0	17.4	6.5	5.5	8.6	11.1	6.4	8.0
Distribution of court events									
percent									
Documents filed ³	14	3	5	7	0	13	42	58	100
Hearings ⁴	23	5	14	4	0	15	61	39	100
Judgments ⁵	24	5	10	6	0	10	56	44	100
All court events	18	4	7	6	0	13	48	52	100

1. Other family related cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others. Two-thirds of these cases were recorded as some other family matter not specifically identified.

2. Court events include case initiation, processing events such as document filings and hearings, and disposition events where all or part of a case is disposed of, including judgements, settlements, withdrawals, and dismissals.

3. The number of documents filed includes any document filed or registered with, or issued by, the courts. Documents include applications, statements of claim, statements of defense and counterclaims, separation and support agreements, parenting plans, mediation reports and financial statements, court orders and divorce certificates.

4. Hearings include trial hearings (before a judge) as well as appeal hearings, enforcement hearings and other hearing or conferences that move the case forward.

5. Judgments include decisions made by a judge (or a magistrate), including interim orders, orders, decisions on costs or other decisions that dispose of part of or all of the case, including summary judgments, consent and default judgments.

Note: Based on information provided by Nova Scotia, New Brunswick, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Information for New Brunswick includes partial data for courts in Moncton, for the third and fourth quarter of 2012/2013 only. Moncton represents approximately 25% of the cases in the Family Division for New Brunswick.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.

Table 3

Court activity in family law cases, selected jurisdictions, cases initiated in 2008/2009¹

Type of civil law case	First 90	Second 90	Second half of	Total	Second	Third	Fourth
	days	days	first year	first year	year	year	year
	percent						
Total family law cases							
Active cases	100	43	31	100	22	9	5
Continuously active since initiation	100	43	22	100	11	4	2
Renewed activity ²	...	...	8	...	7	3	2
Other ³	...	...	...	...	3	3	2
Inactive cases	0	57	69	0	78	91	95
No later activity recorded	...	43	60	...	74	89	95
Dormant ⁴	...	14	10	...	4	2	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	4.3	2.8	3.9	6.7	5.3	5.3	5.4
Average number of hearings	1.1	1.1	1.6	2.0	1.9	1.7	1.5
Average number of judgements	1.2	1.4	1.8	2.3	2.2	2.0	1.8
	percent						
Percentage of cases with a judgement	52	62	65	74	61	58	54
Percentage of cases with a settlement, withdrawal or dismissal	5	5	5	8	18	8	8
Child custody and/or access							
Active cases	100	57	46	100	34	17	11
Continuously active since initiation	100	57	38	100	22	9	4
Renewed activity ²	...	...	8	...	7	3	3
Other ³	...	...	...	...	5	4	3
Inactive cases	0	43	54	0	66	83	89
No later activity recorded	...	30	45	...	61	80	89
Dormant ⁴	...	13	10	...	5	3	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	5.2	3.1	4.5	9.1	6.6	6.5	6.4
Average number of hearings	1.6	1.4	1.9	3.2	2.5	2.2	1.9
Average number of judgements	1.9	2.0	2.6	4.2	3.3	2.8	2.5
	percent						
Percentage of cases with a judgement	63	65	70	85	72	68	64
Percentage of cases with a settlement, withdrawal or dismissal	7	4	4	11	10	7	7

See notes at the end of the table.

Table 3 (continued)
 Court activity in family law cases, selected jurisdictions, cases initiated in 2008/2009¹

	First 90 days	Second 90 days	Second half of first year	Total first year	Second year	Third year	Fourth year
Type of civil law case	percent						
Child support (only)	percent						
Active cases	100	54	40	100	26	12	7
Continuously active since initiation	100	54	33	100	16	6	2
Renewed activity ²	...	...	7	...	6	3	2
Other ³	...	...	...	...	4	3	2
Inactive cases	0	46	60	0	74	88	93
No later activity recorded	...	34	52	...	70	86	93
Dormant ⁴	...	12	8	...	4	2	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	4.5	2.7	3.4	7.3	4.6	4.4	4.4
Average number of hearings	1.2	1.3	1.8	2.6	2.2	1.9	1.7
Average number of judgements	1.3	1.5	2.0	2.9	2.3	2.1	1.8
	percent						
Percentage of cases with a judgement	60	63	67	83	67	63	59
Percentage of cases with a settlement, withdrawal or dismissal	5	4	6	9	11	10	11
Child protection	percent						
Active cases	100	48	34	100	16	5	2
Continuously active since initiation	100	48	30	100	14	4	1
Renewed activity ²	...	...	4	...	2	1	1
Other ³	...	...	...	...	1	1	0 ⁵
Inactive cases	0	52	66	0	84	95	98
No later activity recorded	...	48	64	...	83	94	98
Dormant ⁴	...	5	2	...	1	1	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	4.7	3.1	4.7	7.8	7.0	6.1	7.0
Average number of hearings	2.6	1.9	2.7	4.4	3.8	3.5	3.2
Average number of judgements	2.4	1.7	2.3	4.0	3.3	2.9	2.7
	percent						
Percentage of cases with a judgement	89	69	69	94	71	66	67
Percentage of cases with a settlement, withdrawal or dismissal	7	5	7	11	10	9	8

See notes at the end of the table.

Table 3 (continued)

Court activity in family law cases, selected jurisdictions, cases initiated in 2008/2009¹

Type of civil law case	First 90	Second 90	Second half of	Total	Second	Third	Fourth
	days	days	first year	first year	year	year	year
	percent						
Uncontested divorce							
Active cases	100	41	21	100	14	5	3
Continuously active since initiation	100	41	9	100	2	0 ^s	0 ^s
Renewed activity ²	...	...	12	...	9	3	2
Other ³	...	...	...	...	3	1	1
Inactive cases	0	59	79	0	86	95	97
No later activity recorded	...	37	66	...	82	93	97
Dormant ⁴	...	22	12	...	5	2	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	4.2	2.4	2.8	5.8	3.4	2.7	2.8
Average number of hearings	0.4	0.5	0.5	0.7	0.5	0.3	0.2
Average number of judgements	0.6	1.0	1.0	1.3	0.8	0.5	0.4
	percent						
Percentage of cases with a judgement	44	71	67	83	49	26	23
Percentage of cases with a settlement, withdrawal or dismissal	0 ^s	1	1	1	32	7	7
Adoption							
Active cases	100	6	4	100	2	1	0 ^s
Continuously active since initiation	100	6	1	100	0 ^s	0	0
Renewed activity ²	...	...	2	...	1	0 ^s	0 ^s
Other ³	...	...	...	...	0 ^s	0 ^s	0 ^s
Inactive cases	0	94	96	0	98	99	100
No later activity recorded	...	90	95	...	98	99	100
Dormant ⁴	...	3	1	...	0 ^s	0 ^s	...
Total cases	100	100	100	100	100	100	100
	number						
Average number of documents filed	2.7	1.4	1.7	2.8	2.8	3.2	3.3
Average number of hearings	0.7	0.6	0.8	0.8	1.0	0.7	0.3
Average number of judgements	1.0	0.7	1.0	1.1	0.8	0.6	0.5
	percent						
Percentage of cases with a judgement	79	58	67	82	43	50	50
Percentage of cases with a settlement, withdrawal or dismissal	0 ^s	2	2	0^s	0	0	0

See notes at the end of the table.

Table 3 (continued)
Court activity in family law cases, selected jurisdictions, cases initiated in 2008/2009¹

	First 90 days	Second 90 days	Second half of first year	Total first year	Second year	Third year	Fourth year
percent							
Type of civil law case							
Other family law cases⁵							
Active cases	100	31	24	100	20	7	4
Continuously active since initiation	100	31	16	100	8	3	1
Renewed activity ²	...	...	7	...	8	2	2
Other ³	...	...	...	...	4	3	1
Inactive cases	0	69	76	0	80	93	96
No later activity recorded	...	54	66	...	76	90	96
Dormant ⁴	...	15	11	...	4	2	...
Total cases	100	100	100	100	100	100	100
number							
Average number of documents filed	3.5	2.7	3.6	5.2	4.5	4.7	4.8
Average number of hearings	0.6	0.8	1.1	1.2	1.2	1.2	1.0
Average number of judgements	0.6	0.7	1.0	1.1	1.2	1.2	1.1
percent							
Percentage of cases with a judgement	36	48	54	52	50	51	48
Percentage of cases with a settlement, withdrawal or dismissal	6	8	8	10	24	11	10
Non-family cases (general civil courts)							
Active cases	100	40	33	100	21	13	7
Continuously active since initiation	100	40	21	100	8	3	1
Renewed activity ²	...	...	12	...	9	6	2
Other ³	...	...	...	...	5	4	3
Inactive cases	0	60	67	0	79	87	93
No later activity recorded	...	39	53	...	71	85	93
Dormant ⁴	...	21	14	...	8	2	...
Total cases	100	100	100	100	100	100	100
number							
Average number of documents filed	3.8	2.3	2.7	5.6	3.3	3.4	3.3
Average number of hearings	0.2	0.4	0.6	0.6	0.8	0.8	1.0
Average number of judgements	0.6	0.5	0.7	1.0	0.9	0.8	0.9
percent							
Percentage of cases with a judgement	36	34	38	53	43	42	46
Percentage of cases with a settlement, withdrawal or dismissal	3	7	25	14	23	32	33

... not applicable

⁰ value rounded to 0 (zero) where there is a meaningful distinction between true zero and the value that was rounded

1. Includes all cases initiated in fiscal year 2008/2009, including those no longer active (reporting no court events) in each period. Excludes cases where information on events in the first 90 days (including case initiation events) is not recorded (0.27% of family law cases and 1.6% of general civil court cases).

2. Cases which were inactive, with no court events reported, in the previous period.

3. Cases which were active in the preceding period (reporting some court events), but inactive in some earlier period.

4. Dormant cases are inactive in the current period, but reporting court events in some later period.

5. Other family related cases include issues of contested divorce (with no child issues), separation, spousal support, property division, guardianship, and estate matters, among others.

Note: Based on information provided by Nova Scotia, Ontario, Alberta, British Columbia, Yukon, the Northwest Territories and Nunavut. Percentages do not add to 100% due to rounding. Active cases are those with any court events reported in a given time period. Inactive cases are those with no court events reported during a given time period.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Civil Court Survey.