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### **CANADIAN DIVORCE LAW AND PRACTICE**

**James C. MacDonald, Q.C.**

**Release No. 5, June 2022**

#### **Publisher's Special Release Note 2021**

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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Canadian Divorce Law and Practice includes digests of thousands of divorce cases organized under 300 specific subjects. In addition, this product features the full text of the *Divorce Act* and other related statutes, sample pleadings and the most commonly used divorce precedents, all relevant provincial rules of practice and all prescribed forms, and extensive commentary on the Spousal Support Advisory Guidelines.

This release provides updates to Chapter 5: Corollary Relief.

### Highlights

- **Corollary Relief — Section 16 — Best Interests of the Child — Primary Consideration — The Child’s Physical, Emotional and Psychological Safety and Well-Being: s. 16(2)** — The court will consider the primary consideration of a child’s physical, emotional and psychological safety, security and well-being when determining whether a parent may take a child to the COVID-19 vaccine appointment without the consent of the other parent: *Sembaliuk v. Sembaliuk*, 2022 ABQB 62 (Alta. Q.B.).
- **Corollary Relief — Section 16 — Best Interests of the Child — Factors Related to the Circumstances of the Child: 16(3)** — Great weight should be given to children, aged 10 and 12, who oppose receiving the COVID-19 vaccine, based on the combination of sections 16(2) (“the child’s physical, emotional and psychological safety, security and well-being”) and 16(3)(e) (“the child’s views and preferences...”): *J.N. v. C.G.*, 2022 ONSC 1198, 2022 CarswellOnt 2062 (Ont. S.C.J.).
- **Corollary Relief — Section 16 — Best Interests of the Child — As much parenting time as is consistent with best interests of child: s.16(6) — Ontario** — The law pertaining to the child’s right to a relationship with both parents is clear: where maximum contact has been found to be in the child’s best interests, the decision to have access with the non-custodial parent cannot be left up to the child. A parent cannot hide behind the supposed views of the child: *Jackscha v. Funnell*, 2012 ONSC 4234.

### ProView Developments

Your ProView edition of this product now has a new, modified layout:

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