

## *Juristat* article

# Divorce cases in civil court, 2010/2011



by Mary Bess Kelly

Released on March 28, 2012

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# Divorce cases in civil court, 2010/2011

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March 2012

Catalogue no. 85-002-X

ISSN 1209-6393

Frequency: Irregular

Ottawa

Cette publication est également disponible en français

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## **Note of appreciation**

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## Symbols

- . 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<sup>s</sup> value rounded to 0 (zero) where there is a meaningful distinction between true zero and the value that was rounded
- <sup>p</sup> preliminary
- <sup>r</sup> revised
- x suppressed to meet the confidentiality requirements of the *Statistics Act*
- <sup>E</sup> use with caution
- F too unreliable to be published

## Divorce cases in civil court, 2010/2011: Highlights

- The number of divorce cases in the seven reporting provinces and territories was just over 113,000 in 2010/2011. This figure represents more than one-third (35%) of all family law cases, or 12% of all civil court cases in these provinces and territories.
- All divorces in Canada must go through a civil court in order to be legally recognized. There were almost 54,000 new divorce cases initiated in the seven reporting provinces and territories in 2010/2011, a decline of 2% from the year before.
- The number of new divorce cases being filed in civil courts has been declining in the reporting jurisdictions for several years. Over the five-year period between 2006/2007 and 2010/2011, new cases declined 8% in six provinces and territories, steadily decreasing 2% each year (excludes Alberta since data were not available for part of the time period). Over the five-year period, declines ranged from a decrease of 4% in British Columbia to a 22% drop in Nova Scotia.
- The majority of divorce cases (80%) being handled through courts in 2010/2011 were uncontested or cases where both parties were agreeing to the divorce and any related issues, such as support and child custody and access arrangements.
- Divorce cases rarely reach the trial stage. A trial was held in only 1% of divorce cases in six provinces and territories in 2010/2011 (excludes Ontario since figures are not comparable).
- Among divorce cases with a divorce judgment in six reporting jurisdictions, one-third (33%) reached this decision within three months after the divorce was first filed (excludes British Columbia since these data were not available in 2010/2011). In another 28%, the divorce was granted between three and six months after case initiation.

## Divorce cases in civil court, 2010/2011

by Mary Bess Kelly

Civil courts typically deal with cases that involve a dispute between two private parties. Civil courts handle two types of cases: family law cases, such as divorce, separation and cases involving child custody, access and support arrangements; and general civil cases, such as bankruptcy, probate matters and other claims involving money.

In Canada, all divorces must be legally granted through civil court. Although divorce statistics do not capture the breakdown of relationships outside of a marriage, examining trends in divorce cases flowing through civil court can assist in understanding trends in marital breakdown, as well as the court caseload and process related to divorce.

Using data from the Civil Court Survey, this *Juristat* article examines divorce cases within the civil court system in the seven reporting provinces and territories (Nova Scotia, Ontario, Alberta, British Columbia, Yukon, Northwest Territories and Nunavut, representing 66% of Canada's population).<sup>1</sup> Information is provided to address the following key questions: How many divorce cases are handled in civil court? How many new divorce cases are filed each year? What are the trends in the divorce caseload in civil court? How long does it take before a divorce is made final? What are the key characteristics of divorce cases that remain in the civil court system over a long period of time?

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1. The Civil Court Survey allows for multiple issues, such as divorce, custody, access, support, and others, to be reported for a case as the case proceeds through court. For this analysis, a case is counted as a divorce case if divorce has been one of the issues reported for the case, over the length of the case.

## Text box 1 Divorces in Canada

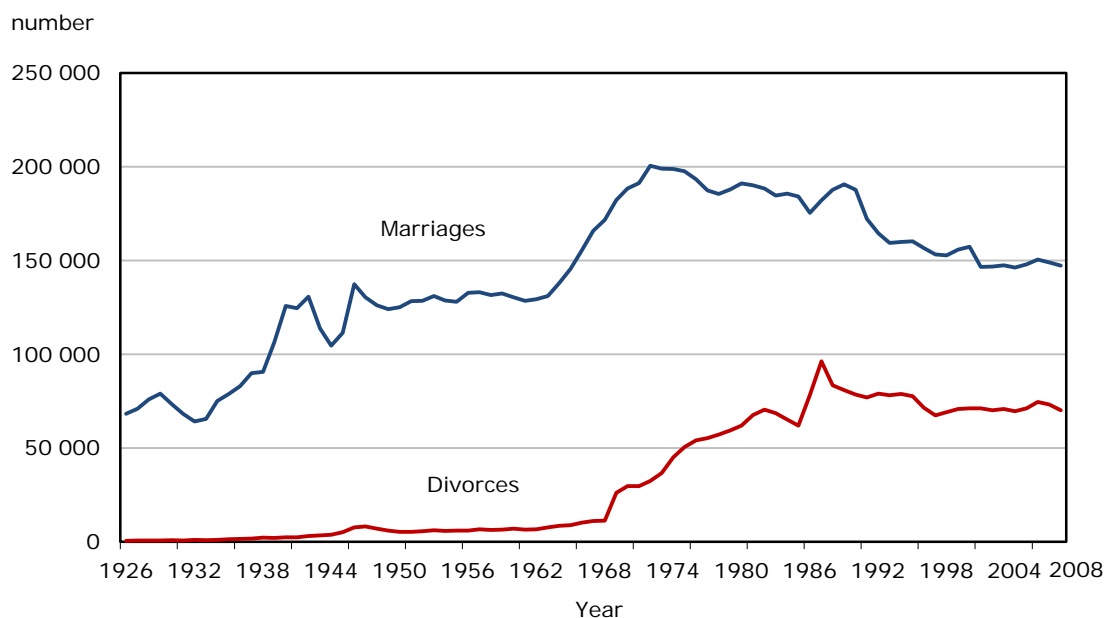
Family structures in Canada are changing. The proportion of married couples has been steadily decreasing over the past 20 years while common-law unions are becoming more numerous. The proportion of lone-parent families has also been steadily rising since the mid-1960s (Statistics Canada 2007). Although the number and rate of marriages has been declining in recent years, the number of married couples is still much greater than the number of common-law couples in Canada (Statistics Canada 2011 and 2007).

A divorce is the legal dissolution of a legal marriage. Similar to the recent decline in marriages, the number of divorces in Canada has been declining in recent years. In 2008, there were over 70,000 divorces granted in Canada, a decline of 4% from the year before (Statistics Canada 2011).

Divorce cases are governed by the legislation contained in the federal *Divorce Act*. Under the *Divorce Act*, marital breakdown is the only grounds for divorce and must be established by the parties applying for divorce in one of three ways: separation of one year or more; adultery; or mental or physical cruelty. The vast majority (95%) of divorces in Canada are based on the grounds that the couple has been separated and living apart for at least one year (Statistics Canada 2011).

The *Divorce Act* was established in 1968, introducing the concept of permanent marriage breakdown. Prior to 1968, there was no federal divorce law in Canada and only some jurisdictions enacted divorce legislation. The *Divorce Act* was reformed in 1985—establishing marital breakdown as the only grounds for divorce and reducing the separation period from three years to one. There were very few divorces in Canada in the decades leading up to the mid 1960s, while spikes were seen in the number of divorces in both 1970 and 1987, reflecting these legislative changes (Chart 1).<sup>2</sup>

**Chart 1**  
Number of marriages and divorces, Canada, 1926 to 2008



**Source:** Statistics Canada, Health Statistics Division, Canadian Vital Statistics, Divorce Database and Marriage Database.

After the spike in 1987, the number of divorces declined, then levelled off through the 1990s and has recently decreased in both 2007 and 2008. Although the number of divorces has shown recent declines, in 2008 it was estimated that 41% of marriages will end in divorce before the 30th year of marriage, an increase from 36% in 1998 (Statistics Canada 2011) (Text table 1).

2. The figures in Text box 1 are based on information from the Central Registry of Divorce Proceedings (CRDP) at the Department of Justice Canada and represent completed divorce proceedings.

Text box 1 (continued)  
Divorces in Canada

Text Table 1  
30-year total divorce rate per 100 marriages, Canada, provinces and territories, 1998 to 2008

Province or territory	30-year total divorce rate <sup>1</sup>					
	1998	2000	2002	2004	2006	2008
<b>Canada</b>	<b>36.1</b>	<b>37.6</b>	<b>37.6</b>	<b>37.9</b>	<b>41.9</b>	<b>40.7</b>
Newfoundland and Labrador	23.2	22.9	21.8	21.6	22.3	25.0
Prince Edward Island	26.4	26.9	25.2	29.1	28.4	31.7
Nova Scotia	28.2	30.4	30.4	30.2	33.7	31.1
New Brunswick	26.9	31.9	27.2	26.9	30.0	29.7
Quebec	45.2	47.4	47.6	48.4	48.0	47.4
Ontario	33.0	34.6	34.9	35.5	44.1	42.1
Manitoba	30.1	30.3	30.3	30.6	29.9	31.5
Saskatchewan	31.5	31.4	28.7	27.6	30.7	30.3
Alberta	39.0	41.5	41.9	41.9	42.1	46.0
British Columbia	40.0	40.6	41.0	40.8	42.3	37.1
Yukon	55.2	33.6	43.4	34.8	44.8	59.7
Northwest Territories and Nunavut <sup>2</sup>	37.5	40.7	31.2	35.5	30.8	35.1

1. The 30-year total divorce rate (TDR-30) represents the proportion of married couples who are expected to divorce before their 30th wedding anniversary. For example, a TDR-30 of 40.7 per 100 marriages for Canada in 2008 indicates that 40.7% of marriages are expected to end in divorce before the 30th year of marriage (if the duration-specific divorce rates calculated for 2008 remain stable).

2. Northwest Territories and Nunavut are combined to calculate the rates in this table because marriage and divorce data are not available for these territories separately for the 30- and 50-year periods required for the calculation of the total divorce rates.

**Source:** Statistics Canada, Health Statistics Division, Canadian Vital Statistics, Divorce Database and Marriage Database.

The rate of divorce rises rapidly in the first few years of marriage. In 2008, the divorce rate peaked after three years of marriage, when just over 30 out of 1,000 marriages ended in divorce (Statistics Canada 2011).<sup>3</sup> The rate of divorce decreased with each additional year of marriage. In 2008, about 18 out of 1,000 couples married 10 years obtained a divorce, while 10 out of 1,000 marriages lasting 20 years ended in divorce. The majority (59%) of divorces in 2008 were of couples married for fewer than 15 years.

3. Figure represents the duration-specific divorce rate which is the divorce rate in a particular year for a specific marriage cohort.

## Divorce cases represent one-third of all family law cases

In Canada, all divorces must go through a civil court in order to be legally recognized. In 2010/2011, civil courts in the seven reporting provinces and territories handled just over 113,000 active divorce cases (Table 1). These cases represented about one-third (35%) of all active family law cases, or 12% of all active civil court cases in these provinces and territories. (Refer to Text box 2 for general trends in all civil court cases in 2010/2011.) Active cases are cases that had registered one or more events with the court during the year, and include newly initiated cases, as well as cases ongoing from a previous year. Events represent the steps needed to process the case through the court system, and for divorce cases range from the filing of documents, to case conferences and hearings, to decisions on the divorce and any related issues.

Each year, civil courts handle new divorce cases initiated during the year, as well as divorce cases ongoing from a previous year. Civil courts are handling a higher number of divorce cases ongoing from a previous year. In 2010/2011, ongoing divorce cases in the reporting provinces and territories grew to over 59,000, an increase of 5% from the year before (Table 2). Increases were seen in six of the seven reporting provinces and territories, ranging from a 2% increase in Ontario and Northwest Territories to 12% in British Columbia. In Yukon, the number of ongoing divorce cases declined 4% from the year before.



## Downward trend in new divorce cases continues

Fewer new divorce cases are entering the courts. In 2010/2011, almost 54,000 new divorce cases were initiated in the seven reporting provinces and territories, a decline of 2% from the year before (Table 3). Declines were seen in each of the seven reporting provinces and territories, with the exception of British Columbia where the number of new divorce cases increased 4%.

The number of new divorce cases being filed in civil courts has been declining in the reporting jurisdictions for several years. Over the five-year period between 2006/2007 and 2010/2011, the number of new divorce cases declined 8% in six reporting provinces and territories (data for Alberta are not available for part of the time period), steadily decreasing 2% each year (Table 3). Drops ranged from 4% in British Columbia to 22% in Nova Scotia.<sup>4</sup> Alberta also saw a decrease of 6% over the three-year period for which data are available, 2008/2009 to 2010/2011.

Overall, the decline in new divorce cases and the growth in ongoing divorce cases in 2010/2011 led to a small increase from the year before in the total number of active divorce cases (1%) in the seven reporting provinces and territories.

### Text box 2

#### General trends in civil court

In 2010/2011, civil courts in the seven reporting provinces and territories handled just over 921,000 cases (Table 4). About two-thirds (65%) of cases were general civil cases, while one-third (35%) involved family law. Of the total civil court cases, almost 494,000 were new cases initiated in the seven provinces and territories, representing a 5% decline from the year before. Fewer new cases were initiated in all jurisdictions except the Northwest Territories, where the number of new cases remained about the same.

The overall civil court caseload in the seven provinces and territories was down slightly (-2%) between 2010/2011 and 2009/2010 (Table 4). The drop in the overall civil court caseload was driven by declines in general civil cases (-2%) as well as family law cases (-3%).

Family law cases decreased in six of the seven reporting provinces and territories in 2010/2011, ranging from a decline of 7% in British Columbia to a 1% decrease in Nova Scotia. Family law cases increased 2% in Alberta (Table 4).

There was a decline in both the number of new family cases (-4%), as well as the number of new general civil cases (-5%) in the seven provinces and territories in 2010/2011 (Table 4).

## Most divorce cases ongoing for two years or less

Divorce cases can be active in civil court over a period of months or years as the case is processed. However, most do not remain in civil court for long periods. In 2010/2011, the majority of divorce cases (74%) in the seven reporting provinces and territories had been in the court system for two years or less (Table 5).<sup>5</sup>

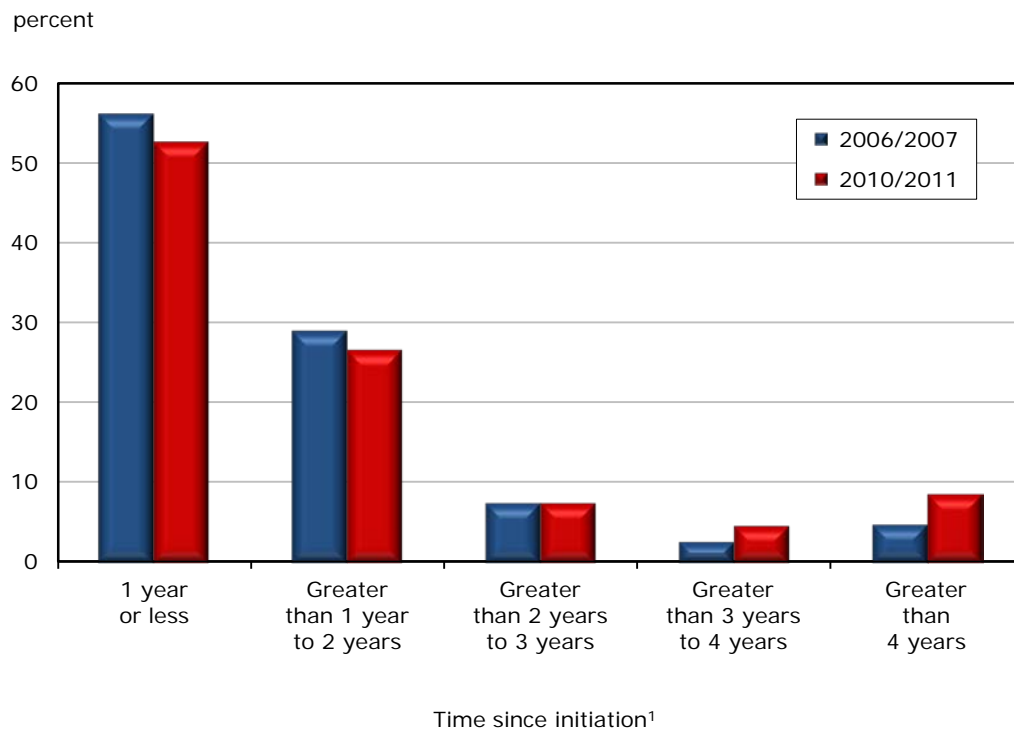
The proportion of divorce cases requiring more time in the civil court system has grown since 2006/2007. In five of the reporting provinces and territories (data were not available for Alberta and only partially available in the Northwest Territories in 2006/2007), a larger proportion of divorce cases had been ongoing over a period of more than two years in 2010/2011 than in 2006/2007 (21% compared to 15%) (Chart 2).

4. In Nova Scotia, the transition to new regulations for family proceedings, which came into force July 1, 2010, may account for the decrease in the number of divorce cases initiated between 2009/2010 and 2010/2011.

5. It is important to note that differences in how cases are processed in the provinces and territories may impact results related to "time since initiation" and comparisons between jurisdictions should be made with caution. For example, depending on jurisdictional practices, a variation of an existing order or further disputes related to the same family may either be captured under the original case file (which may distribute cases toward a longer "time since initiation") (e.g., as in British Columbia) or as a new case.

Chart 2

Active divorce cases in five provinces and territories by time since initiation, 2006/2007 and 2010/2011



1. Time since initiation is based on the year of case initiation with a fiscal year end of March 31.

**Note:** Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba, Alberta, Saskatchewan and Northwest Territories due to the unavailability of data. Active refers to cases that had activity or were initiated during the year.

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

### Text box 3

#### The divorce process

The court rules in each province and territory outline the steps and forms required to obtain a divorce. To begin the process, one or both parties of the marriage must file an application for divorce with the appropriate court in their province or territory. Once filed, the court registers all new divorce applications with the federal Central Registry of Divorce Proceedings (CRDP) to ensure that no other proceeding involving the same parties has already been started elsewhere (Department of Justice Canada 2006a). The court cannot grant a divorce until a clearance certificate has been issued by the CRDP and filed with the court confirming that there are no other ongoing actions.

In Canada, divorce cases are heard in the superior courts, which are presided over by federally appointed judges. The superior courts traditionally have shared jurisdiction with the provincial/territorial courts over family law issues under both federal and provincial-territorial legislation. Some provinces have established specialized courts at the superior court level, called unified family courts, which have jurisdiction over all family law matters. At present, unified family courts are available in two of the reporting jurisdictions in the study, Nova Scotia and Ontario.

Divorce cases may involve issues such as support, child custody and access, and division of marital property. The *Divorce Act* stipulates that reasonable arrangements for the support of any children of the marriage have to be made before a divorce will be granted.<sup>6</sup>

If the divorcing couple agrees on all issues, the divorce will proceed through court as uncontested. Generally, the process involves filing the appropriate forms and documents with the court. In most provinces and territories, the parties to an uncontested divorce do not have to appear in court before a judge (Department of Justice Canada 2006a). Instead, a judge may grant a divorce judgment after reviewing the application and the documentation and evidence filed.

If the divorcing couple cannot agree on one or more issues related to the divorce, then the divorce will proceed as contested. The provincial or territorial court rules set out the steps needed to resolve the issues before the case goes to trial (Department of Justice Canada 2006a). Many of the steps provide an opportunity for the parties to come to an agreement and settle the issues before trial. For example, a pre-trial conference, such as a case conference or settlement conference, may be held. At any time during the divorce proceedings, parties can try to reach an agreement on their own or with the help of lawyers or through mediation.

To finalize the divorce, a judge reviews all of the information the parties have submitted, either on the application or in the trial, to ensure all the legal requirements for a divorce have been met (Department of Justice Canada 2006a). The judge grants the divorce and sets out in a divorce judgement the decision on any issues that need to be resolved. This judgment normally becomes final 31 days after the judge signs it.

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6. Provincial and territorial legislation determines these issues for married and unmarried parents seeking separation, and divorcing parents who choose to have these issues determined under provincial legislation during their divorce proceedings (Department of Justice 2006a). Certain other issues, such as the division of matrimonial property, remain under provincial or territorial law.

## Text box 3 (continued)

## The divorce process

**Steps in uncontested divorce**

- File application in court, file appropriate provincial or territorial forms (court registers all new divorce applications with the federal Central Registry of Divorce Proceedings (CRDP) and the court must obtain a clearance certificate from the CRDP before reviewing the matter and granting the divorce)
- Serve the application to respondent
- Respondent has 30 days to file answer (if answer filed, divorce becomes contested)
- File second set of forms as required by province or territory (e.g., affidavit for divorce or divorce order forms)
- Review by a judge
- Judge grants divorce order if meet requirements for divorce
- Divorce becomes final 31 days after judge signs divorce order (possibility of appeal within that period and move to appellate court)
- Divorce certificate, proof of the divorce, can be obtained from the court

**Steps in contested divorce**

- File application in court, file appropriate provincial or territorial forms, including a financial statement (court registers all new divorce applications with the federal Central Registry of Divorce Proceedings (CRDP) and the court must obtain a clearance certificate from the CRDP before hearing the matter and granting the divorce)
- Serve the application and financial statement to respondent
- Respondent serves and files an answer within 30 days
- Applicant serves and files a reply within 10 days
- Case conference may be held to try and resolve issues
- Motions can be brought before a judge for an interim (temporary) order on issues that cannot wait or disputes over procedures or requested documents
- Settlement conference before a judge may be held to try and resolve issues
- Trial is held if parties do not resolve issues
- Review by a judge
- Judge grants divorce order if meet requirements for divorce
- Divorce becomes final 31 days after judge signs divorce order (possibility of appeal within that period and move to appellate court)
- Divorce certificate, proof of the divorce, can be obtained from the court

**Source:** Compiled from information from Department of Justice (2006), *Divorce Law: Questions and Answers* and Ministry of Attorney General Ontario, *A Guide to Procedures in Family Court*.

**Majority of divorce cases are uncontested**

The civil court process involves various events over time as the divorce case is resolved, including document filings, hearings or conferences, judgments or other decisions. The process is generally straightforward for uncontested divorces where both parties are agreeing to the divorce and any related issues, such as support and child custody and access arrangements. Contested divorces involve one or more issues that are in dispute between the parties and the process to reach resolution becomes more complex (Text box 3).

In 2010/2011, the majority of active divorce cases (80%) in the reporting jurisdictions were uncontested, with the remaining 20% being contested or disputed cases (Table 6).

Divorce cases were contested more often in British Columbia than in other provinces or territories. The proportion of contested divorce cases was 23% in British Columbia, followed by 19% in Nova Scotia, Ontario and Alberta (Table 6). Nunavut had the lowest proportion of contested divorce cases at 10%.<sup>7</sup>

Contested cases remain in the civil court system longer than uncontested cases. In 2010/2011, the median length of contested cases, that is, the length at which half of the cases are longer and the other half are shorter, was 490 days, compared to 120 days for uncontested cases.

### Divorce case activity involves predominantly document filings

Events in a divorce case can include document filings, hearings or conferences, or judgments or other decisions. On average there were a total of 9 events per case during the year for all divorce cases in 2010/2011 in the seven provinces and territories. For contested cases there was an average of 18 events per case compared to 7 events per case for uncontested cases. These average numbers of events per divorce case per year were about the same as in 2006/2007.<sup>8</sup>

Documents or forms are required at various stages of a divorce, from those required when filing for divorce, to motions brought before a judge and those filed upon decisions made by the court. In 2010/2011, document filings accounted for the majority (63%) of all events that took place for all divorce cases in the seven reporting provinces and territories. Affidavits accounted for one-quarter of document filings, while orders represented about 14%. Case initiating documents, such as applications and petitions, represented 11%, and notices and motions, 10%. The remaining 40% included a variety of other documents such as clearance certificates, divorce certificates and financial statements, among others. The volume of document filings per case has remained fairly consistent compared to filings in 2006/2007.<sup>9</sup>

Pre-trial hearings, such as case conferences or settlement conferences, may be held during a case in order to resolve matters. This kind of activity is uncommon in uncontested divorces and occurred in less than 10% of uncontested cases in the reporting jurisdictions in 2010/2011. In comparison, a pre-trial hearing was held in more than half (55%) of contested cases in 2010/2011.

Given that contested cases are more likely to involve court appearances than uncontested cases, adjournments are also more common. Adjournments, suspending any hearing or trial event to another time, took place in more than one-third (38%) of contested cases in 2010/2011, compared to less than 9% of uncontested cases.

### Divorce cases rarely reach the trial stage

There are many methods through which parties may come to an agreement on issues related to a divorce and therefore avoid going to trial before a judge. For example, divorcing individuals may use the help of lawyers or conciliation, mediation or other alternative dispute resolution services available in the provinces and territories (Department of Justice Canada 2006b).

In Canada, the vast majority of divorce cases are resolved before reaching the trial stage. In 2010/2011, 1% of divorce cases in six provinces and territories had a trial during the year (excludes Ontario since figures for Ontario are not comparable).<sup>10</sup> Moreover, only 2% of divorce cases that were active in 2010/2011 in the six provinces and territories had ever reached a trial during the case.

7. The proportion of contested divorce cases is calculated based on active cases for which the full case history is available in the data. Cases which are not indicated to be contested in the full history are assumed to be uncontested.

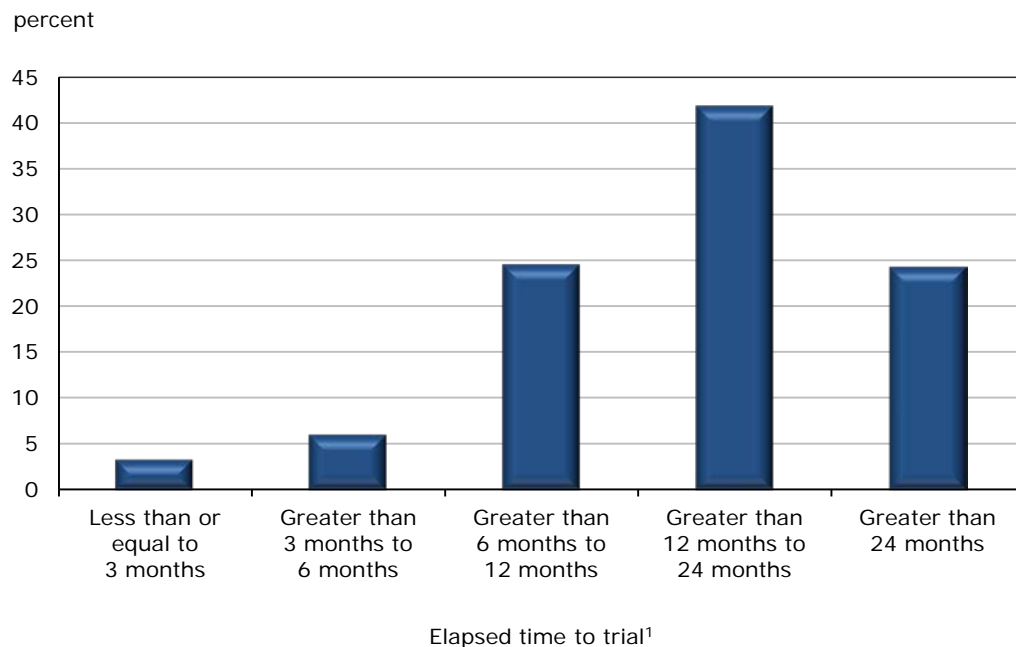
8. The comparison to 2006/2007 was based on six provinces and territories. Data for Alberta were not available for the full period, therefore Alberta was excluded.

9. The comparison to 2006/2007 was based on six provinces and territories. Data for Alberta were not available for the full period, therefore Alberta was excluded.

10. Ontario figures include trial hearings for uncontested divorces. An uncontested trial is a trial in which only the party making the claim provides evidence and submissions. The figures are therefore not comparable.

Most divorce cases that involved a trial tended to reach the trial 12 months or more after initiation. Close to one-tenth (9%) of trials were held within the first six months of the case, and another 25% were held between six months and one year. However, the remaining 66% were held during the second year (42%) or after two years (24%) (Chart 3). These findings were fairly consistent among the reporting provinces and territories.

**Chart 3**  
Divorce cases with trial during case by elapsed time to trial, 2010/2011



1. Calculated only for cases where the full case history has been collected by the Civil Court Survey since a trial may have occurred in the case prior to the start of data collection.

**Note:** Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data. Also excludes trial figures for Ontario since they are not comparable.

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

### Most divorces granted within six months of case initiation

A divorce is declared to have been granted when a divorce judgment is made by the court. In 2010/2011, a divorce was granted in about 38,000 cases, representing close to one-half (43%) of divorce cases proceeding through court in six provinces and territories (data are not available from British Columbia) (Table 7).<sup>11</sup> Among these cases, one-third were granted within three months after the divorce was first filed, with another 28% granted between three and six months after case initiation. The median length of time required to reach a divorce judgment was 130 days, or about 4 months, in the six reporting jurisdictions in 2010/2011.

The time required to reach a divorce judgment varied across jurisdictions. The highest proportion of cases with a divorce judgment granted within three months was reported in Ontario at 41%. The lowest rate of divorces granted within three months, 8%, was reported in Nunavut (Table 7).

11. On taking effect, a divorce judgment legally ends a marriage. Normally the divorce judgment becomes effective on the 31st day after the date of the judgment.

## One in five divorces require more than a year to finalize

Some divorce cases may be more complex and require a longer period of time to reach a divorce judgment. Among divorces granted in 2010/2011 in six provinces and territories, about 1 in 5 (21%) took more than a year to finalize (Table 7). Information on the issues involved in divorce cases is not fully reported to the Civil Court Survey. However, among the cases for which information on issues was provided, one or more issues of support, child access, child custody and the division of marital property were identified in at least two-thirds (65%) of cases that took more than a year to finalize, compared to 22% of divorces granted within one year.<sup>12</sup>

There were differences across the reporting jurisdictions in the proportion of divorces granted after more than one year. Figures ranged from 13% of divorce judgments in the Northwest Territories to 38% in Alberta being reached after one year (Table 7).

## Lengthy divorce cases often have periods of inactivity

Divorce cases may involve issues that take significant time to resolve due to their complexity or the level of conflict between the parties. Some issues may also be brought back to court over time as family circumstances, such as income or living arrangements change. Thus, divorce cases may span a number of years.

While the majority of divorce cases (74%) in the seven reporting provinces and territories had been in the court system for two years or less, about 13% had been initiated more than four years before (Table 5). Among the cases for which information on issues involved in the case was provided, one or more issues of support, child access, child custody and the division of marital property were identified in over one-half (54%) of cases that had been ongoing for more than four years.<sup>13</sup> In comparison, these issues were identified in about one-third (35%) of total divorce cases for which information on issues was provided by the reporting provinces and territories in 2010/2011.

Most of the cases spanning more than four years had periods of inactivity during the length of the case. For example, close to one-half (45%) of those cases that had been active in 2010/2011 were inactive the previous year, that is, had no court activity in 2009/2010.<sup>14</sup> Of those cases that were active in 2010/2011 but inactive in 2009/2010, about one-quarter (27%) had been inactive one year, while another one-quarter (24%) had no activity over a two-year period. The remaining one-half (49%) had been inactive for a period of three or more years.

## Summary

This article examined divorce cases in civil court in seven provinces and territories (Nova Scotia, Ontario, Alberta, British Columbia, Yukon, Northwest Territories and Nunavut) using data from the Civil Court Survey. Findings show that divorce cases accounted for more than one-tenth of all civil court cases, and more than one-third of all family cases proceeding through court in 2010/2011.

Each year, civil courts handle new divorce cases, as well as divorce cases ongoing from a previous year. Over a five-year period between 2006/2007 and 2010/2011, new divorce cases declined 8% in six provinces and territories (data for Alberta are not available for part of the time period), steadily decreasing 2% each year. The majority of ongoing cases were no more than two years old, although there were some provincial and territorial differences in the length of divorce cases being handled in the courts.

Among divorces granted in reporting jurisdictions in 2010/2011, the majority (61%) were granted within six months after the divorce was first filed.

12. The data used for this analysis are collected by the Civil Court Survey from the operational systems used to register and track civil court proceedings in the reporting provinces and territories. These systems may not capture information related to issues, such as custody, access, support and property. Information related to these issues may be under reported and findings are limited to divorce cases where the information is available. The degree of under reporting is unknown.

13. See Note 12.

14. Results related to inactivity exclude Alberta since data were not available for the full period examined.



## Data source

### Civil Court Survey

The objective of the Civil Court Survey (CCS) is to develop and maintain a national database of information on civil court events and cases. The survey is intended to be a census of all civil court activity in Canada. It collects microdata on court events at both the superior and provincial and territorial court levels. Appeal courts, federal courts (e.g., Tax Court of Canada) and the Supreme Court of Canada are out of scope for this survey. Each in-scope event in civil court is reported to the CCS as a separate case event record. Case information is derived by matching all case events that are related to the original initiating document or event. Events are linked to a case on the basis of having the same jurisdiction and case identification number.

### Data limitations

In 2010/2011, seven provinces and territories (Nova Scotia, Ontario, Alberta, British Columbia, Yukon, Northwest Territories and Nunavut) reported to the Civil Court Survey. 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 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. Given that the data collection methodology requires the existence of detailed operational information systems that have not yet been developed in all jurisdictions, it will take time for the survey to achieve full national coverage.

### Reference and collection period

The reference period is the 12-month fiscal period between April 1st and March 31st. Data are collected quarterly in the month following the end of the quarter (July, October, January and April).

## References

Department of Justice Canada. 2006a. *Divorce Law: Questions and Answers*. Family, Children and Youth Section. Ottawa. (accessed November 18, 2011).

Department of Justice Canada. 2006b. Department of Justice Inventory of Government-Based Family Justice Services. Family, Children and Youth Section. Ottawa. (accessed November 18, 2011).

Ministry of Attorney General Ontario. 2010. *A Guide to Procedures in Family Court*. Revised. June 2010. (accessed December 14, 2011).

Statistics Canada. 2011. Health Statistics Division, Canadian Vital Statistics, Divorce Database and Marriage Database.

Statistics Canada. 2007. *Family Portrait: Continuity and Change in Canadian Families and Households in 2006, 2006 Census*. Statistics Canada Catalogue number 97-553-XWE. (accessed November 18, 2011).



## Detailed data tables

Table 1  
Divorce cases, selected provinces and territories, 2010/2011

Province or territory <sup>1</sup>	Initiated cases <sup>2</sup>		Ongoing cases <sup>3</sup>		Total active cases <sup>4</sup>	
	number	percent	number	percent	number	percent
Nova Scotia	1,792	33	3,562	67	5,354	100
Ontario	31,281	59	21,941	41	53,222	100
Alberta	9,726	33	19,770	67	29,496	100
British Columbia <sup>5</sup>	10,832	44	13,900	56	24,732	100
Yukon	89	40	132	60	221	100
Northwest Territories	72	53	64	47	136	100
Nunavut	12	38	20	63	32	100
<b>Total</b>	<b>53,804</b>	<b>48</b>	<b>59,389</b>	<b>52</b>	<b>113,193</b>	<b>100</b>

1. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.

2. Refers to cases newly started during the year.

3. Refers to cases continuing from a previous year.

4. Refers to cases that had activity or were initiated during the year.

5. Divorce cases in British Columbia may be under-represented since the family matter is unknown in 10% of all family cases.

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

Table 2  
Ongoing divorce cases, selected provinces and territories, 2006/2007 to 2010/2011

Province or territory <sup>1</sup>	Fiscal year					Percentage change 2009/2010 to 2010/2011	Percentage change 2006/2007 to 2010/2011
	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2010/ 2011		
	number					percent	
Nova Scotia	3,379	3,174	3,246	3,230	3,562	10	5
Ontario	25,015	25,392	22,603	21,478	21,941	2	-12
Alberta <sup>2</sup>	..	9,816	18,877	19,250	19,770	3	..
British Columbia <sup>3</sup>	9,019	10,096	10,947	12,453	13,900	12	54
Yukon	131	152	135	137	132	-4	1
Northwest Territories <sup>4</sup>	..	51	60	63	64	2	..
Nunavut	34	25	39	19	20	5	-41
<b>Total<sup>2</sup></b>	<b>37,578</b>	<b>48,706</b>	<b>55,907</b>	<b>56,630</b>	<b>59,389</b>	5	5

.. not available for a specific reference period

... not applicable

1. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.
2. Alberta data are not available for 2006/2007. Alberta data for family cases at the superior court level (which would include all divorce cases) are available for the final 6 months of 2007/2008 only.
3. Divorce cases in British Columbia may be under-represented since the family matter is unknown in 10% of all family cases.
4. Northwest Territories data on ongoing cases are not available for 2006/2007 due to information system limitations.

**Note:** Ongoing refers to divorce cases continuing from a previous year.

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

Table 3  
Initiated divorce cases, selected provinces and territories, 2006/2007 to 2010/2011

Province or territory <sup>1</sup>	Fiscal year					Percentage change	Percentage change
	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2010/ 2011	2009/2010 to 2010/2011	2006/2007 to 2010/2011
	number					percent	
Nova Scotia <sup>2</sup>	2,309	2,182	2,161	2,270	1,792	-21	-22
Ontario	34,022	33,210	32,369	31,974	31,281	-2	-8
Alberta <sup>3</sup>	..	4,871	10,390	10,093	9,726	-4	...
British Columbia <sup>4</sup>	11,274	11,263	11,008	10,462	10,832	4	-4
Yukon	104	99	90	103	89	-14	-14
Northwest Territories	80	57	75	74	72	-3	-10
Nunavut	14	28	11	20	12	-40	-14
<b>Total<sup>3</sup></b>	<b>47,803</b>	<b>51,710</b>	<b>56,104</b>	<b>54,996</b>	<b>53,804</b>	<b>-2</b>	<b>-8</b>

.. not available for a specific reference period

... not applicable

1. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.
2. In Nova Scotia, the transition to new regulations for family proceedings, which came into force July 1, 2010, may account for the decrease in the number of divorce cases initiated between 2009/2010 and 2010/2011.
3. Alberta data are not available for 2006/2007. Alberta data for family cases at the superior court level (which would include all divorce cases) are available for the final 6 months of 2007/2008 only.
4. Divorce cases in British Columbia may be under-represented since the family matter is unknown in 10% of all family cases.

**Note:** Initiated refers to divorce cases newly started during the year.

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

Table 4  
Initiated and active civil court cases by type of case, selected provinces and territories,  
2009/2010 and 2010/2011

Province or territory	Type of case	Initiated <sup>1</sup>			Total active <sup>2</sup>		
		2009/ 2010	2010/ 2011	Percent change 2009/2010 to 2010/2011	2009/ 2010	2010/ 2011	Percent change 2009/2010 to 2010/2011
		number	number	percent	number	number	percent
Nova Scotia	Family	6,185	5,500	-11	15,317	15,092	-1
	General civil	13,136	13,129	0	22,345	22,061	-1
	<b>Total civil court</b>	<b>19,321</b>	<b>18,629</b>	<b>-4</b>	<b>37,662</b>	<b>37,153</b>	<b>-1</b>
Ontario	Family	102,201	96,716	-5	169,608	162,823	-4
	General civil	181,177	169,137	-7	327,261	319,528	-2
	<b>Total civil court</b>	<b>283,378</b>	<b>265,853</b>	<b>-6</b>	<b>496,869</b>	<b>482,351</b>	<b>-3</b>
Alberta	Family	44,094	44,428	1	73,335	74,910	2
	General civil	74,504	70,747	-5	138,040	134,039	-3
	<b>Total civil court</b>	<b>118,598</b>	<b>115,175</b>	<b>-3</b>	<b>211,375</b>	<b>208,949</b>	<b>-1</b>
British Columbia	Family	25,367	24,064	-5	68,532	63,978	-7
	General civil	69,843	67,573	-3	122,514	124,391	2
	<b>Total civil court</b>	<b>95,210</b>	<b>91,637</b>	<b>-4</b>	<b>191,046</b>	<b>188,369</b>	<b>-1</b>
Yukon	Family	306	291	-5	590	581	-2
	General civil	462	464	0	813	820	1
	<b>Total civil court</b>	<b>768</b>	<b>755</b>	<b>-2</b>	<b>1,403</b>	<b>1,401</b>	<b>0</b>
Northwest Territories	Family	446	446	0	1,024	975	-5
	General civil	522	524	0	1,013	1,031	2
	<b>Total civil court</b>	<b>968</b>	<b>970</b>	<b>0</b>	<b>2,037</b>	<b>2,006</b>	<b>-2</b>
Nunavut	Family	668	619	-7	845	829	-2
	General civil	147	147	0	263	270	3
	<b>Total civil court</b>	<b>815</b>	<b>766</b>	<b>-6</b>	<b>1,108</b>	<b>1,099</b>	<b>-1</b>
Total	<b>Family</b>	<b>179,267</b>	<b>172,064</b>	<b>-4</b>	<b>329,251</b>	<b>319,188</b>	<b>-3</b>
	<b>General civil</b>	<b>339,791</b>	<b>321,721</b>	<b>-5</b>	<b>612,249</b>	<b>602,140</b>	<b>-2</b>
	<b>Total civil court</b>	<b>519,058</b>	<b>493,785</b>	<b>-5</b>	<b>941,500</b>	<b>921,328</b>	<b>-2</b>

1. Refers to cases newly started during the year.

2. Refers to cases that had activity or were initiated during the year.

**Note:** Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.

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

Table 5  
Divorce cases by time since initiation, selected provinces and territories, 2010/2011

Province or territory <sup>2</sup>	Time since initiation <sup>1</sup>						Total active divorce cases <sup>3</sup>
	1 year or less	Greater Than 1 year to 2 years	Greater Than 2 years to 3 years	Greater Than 3 years to 4 years	Greater Than 4 years	Unknown	
	number						
Nova Scotia	1,792	1,325	524	355	1,355	3	<b>5,354</b>
Ontario	31,281	14,907	3,530	1,404	2,100	0	<b>53,222</b>
Alberta	9,726	6,804	3,173	1,971	7,616	206	<b>29,496</b>
British Columbia	10,832	5,926	2,160	2,105	3,701	8	<b>24,732</b>
Yukon	89	52	20	14	46	0	<b>221</b>
Northwest Territories	72	38	11	4	11	0	<b>136</b>
Nunavut	12	12	1	4	3	0	<b>32</b>
<b>Total</b>	<b>53,804</b>	<b>29,064</b>	<b>9,419</b>	<b>5,857</b>	<b>14,832</b>	<b>217</b>	<b>113,193</b>
	percent						
Nova Scotia	33	25	10	7	25	...	<b>100</b>
Ontario	59	28	7	3	4	...	<b>100</b>
Alberta	33	23	11	7	26	...	<b>100</b>
British Columbia	44	24	9	9	15	...	<b>100</b>
Yukon	40	24	9	6	21	...	<b>100</b>
Northwest Territories	53	28	8	3	8	...	<b>100</b>
Nunavut	38	38	3	13	9	...	<b>100</b>
<b>Total</b>	<b>48</b>	<b>26</b>	<b>8</b>	<b>5</b>	<b>13</b>	...	<b>100</b>

... not applicable

1. Time since initiation is based on the year of case initiation with a fiscal year-end of March 31.

2. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.

3. Refers to cases that had activity or were initiated during the year.

**Note:** It is important to note that differences in how cases are processed in the provinces and territories may impact results related to "time since initiation" and comparisons between jurisdictions should be made with caution. For example, depending on jurisdictional practices, a variation of an existing order or further disputes related to the same family may either be captured under the original case file (which may distribute cases toward a longer "time since initiation") (e.g., as in British Columbia) or as a new case.

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

Table 6  
Contested divorce cases by time since initiation, selected provinces and territories, 2010/2011

Province or territory <sup>2</sup>	Time since initiation <sup>1</sup>					Total contested divorce cases <sup>3</sup>	Total active divorce cases with full history <sup>4</sup>	Total active divorce cases <sup>5</sup>	Percent contested <sup>6</sup>
	Greater than 1 year or less	Greater than 1 year to 2 years	Greater than 2 years to 3 years	Greater than 3 years to 4 years	Greater than 4 years				
	number								
Nova Scotia	245	221	130	89	234	919	4,759	5,354	19
Ontario	2,706	3,302	2,038	976	869	9,891	52,450	53,222	19
Alberta <sup>7</sup>	1,011	1,243	1,235	515	..	4,004	20,760	29,496	19
British Columbia	1,842	1,306	756	644	906	5,454	23,338	24,732	23
Yukon	11	14	3	1	0	29	196	221	15
Northwest Territories	7	5	2	3	4	21	136	136	15
Nunavut	1	1	0	0	1	3	31	32	10
<b>Total</b>	<b>5,823</b>	<b>6,092</b>	<b>4,164</b>	<b>2,228</b>	<b>2,014</b>	<b>20,321</b>	<b>101,670</b>	<b>113,193</b>	<b>20</b>

.. not available for a specific reference period

1. Time since initiation is based on the year of case initiation with a fiscal year end of March 31. Calculated only for cases where the complete case history has been collected by the Civil Court Survey.
2. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba and Saskatchewan due to the unavailability of data.
3. Refers to those cases where a Statement of Defence (the defendant's response to a claim or application) has been filed.
4. Refers to cases where the complete case history has been collected by the Civil Court Survey.
5. Refers to court cases that had activity or were initiated during the year.
6. Calculated as a proportion of total active divorce cases with full history.
7. In Alberta, the complete case history is not available for any divorce cases initiated prior to October 2007, the start of data collection for the Civil Court Survey.

**Note:** It is important to note that differences in how cases are processed in the provinces and territories may impact results related to "time since initiation" and comparisons between jurisdictions should be made with caution. For example, depending on jurisdictional practices, a variation of an existing order or further disputes related to the same family may either be captured under the original case file (which may distribute cases toward a longer "time since initiation") (e.g., as in British Columbia) or as a new case.

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

Table 7

Divorce cases by elapsed time from case initiation to divorce judgment, selected provinces and territories, 2010/2011

Province or territory <sup>2</sup>	Elapsed time to divorce judgment <sup>1</sup>					Total divorce cases with divorce judgment	Total Active divorce cases <sup>3</sup>
	Less than or equal to 3 months	Greater than 3 months to 6 months	Greater than 6 months to 12 months	Greater than 12 months to 24 months	Greater than 24 months		
	number						
Nova Scotia <sup>4</sup>	438	413	387	339	360	<b>1,937</b>	<b>5,354</b>
Ontario	11,239	7,848	4,274	2,515	1,399	<b>27,275</b>	<b>53,222</b>
Alberta <sup>4</sup>	1,079	2,373	2,071	1,782	1,562	<b>8,867</b>	<b>29,496</b>
Yukon	34	18	17	15	20	<b>104</b>	<b>221</b>
Northwest Territories	23	20	9	6	2	<b>60</b>	<b>136</b>
Nunavut	1	5	3	3	0	<b>12</b>	<b>32</b>
<b>Total</b>	<b>12,814</b>	<b>10,677</b>	<b>6,761</b>	<b>4,660</b>	<b>3,343</b>	<b>38,255</b>	<b>88,461</b>
	percent						
Nova Scotia <sup>4</sup>	23	21	20	18	19	<b>100</b>	...
Ontario	41	29	16	9	5	<b>100</b>	...
Alberta <sup>4</sup>	12	27	23	20	18	<b>100</b>	...
Yukon	33	17	16	14	19	<b>100</b>	...
Northwest Territories	38	33	15	10	3	<b>100</b>	...
Nunavut	8	42	25	25	0	<b>100</b>	...
<b>Total</b>	<b>33</b>	<b>28</b>	<b>18</b>	<b>12</b>	<b>9</b>	<b>100</b>	...

1. Divorce judgment refers to the order for divorce granted by a court in a divorce case. On taking effect, a divorce judgment legally ends a marriage. Normally the divorce judgment becomes effective on the 31st day after the date of the judgment.

2. Excludes data from Newfoundland and Labrador, Prince Edward Island, New Brunswick, Quebec, Manitoba, Saskatchewan and British Columbia due to the unavailability of data.

3. Refers to court cases that had activity or were initiated during the year.

4. In a small number of cases in Nova Scotia and Alberta, the date of case initiation was unknown therefore the elapsed time to divorce judgment could not be calculated. This results in some undercounting.

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