New Brunswick Women's Council | Conseil des femmes du Nouveau-Brunswick

Time limits on civil actions

About the New Brunswick Women's Council

The New Brunswick Women's Council is an independent advisory body for study and consultation on matters of importance, interest, and concern to women and their substantive equality. Its objectives are:

a) to be an independent body that provides advice to the Minister on matters of importance to women and their substantive equality;

b) to bring to the attention of government and the public issues of interest and concern to women and their substantive equality;

c) to include and engage women of diverse identities, experiences and communities, women's groups and society in general;

d) to be strategic and provide advice on emerging and future issues; and

e) to represent New Brunswick women.

In delivering on these objectives, the Council may conduct or commission research and publish reports, studies, and recommendations. The Council is directed by an appointed volunteer membership that includes both organizations and individuals. The work is executed by a small staff team.

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Introduction

In March 2026, government tabled amendments to the *Limitation of Actions Act.* These changes, as per government, aim to "improve access to the civil justice system for people who have experienced intimate partner violence or similar misconduct in a relationship of dependence."[1] The changes have since become law. This brief explains the changes and shares additional related updates to the Act that the Council has recommended to government.

Note: for the most part, this brief uses *claimant*, *defendant*, *alleged wrongdoer*, *act*, and *occur* instead of *victim and survivor*, *assailant* or *abuser*, *violence*, *perpetrated*, or *committed*. This is not to be euphemistic about violence or to minimize the responsibility of assailants and abusers but to enable easier cross reference with the Act and language typically used in workplace investigations.

What is the civil justice system?

In Canada, there are two justice systems: the criminal system and the civil system. As the Government of Canada explains:

> A civil case is a private case where someone sues someone else. This is also known as a suit or action. In a criminal case, the Crown prosecutes an accused under a public-law statute such as the *Criminal Code* or the *Controlled Drugs and Substances Act*.[2]

This brief deals with lawsuits in the civil system. The Government of Canada explains that a suit (also called a claim):

> starts when individuals or corporations disagree on a legal matter, such as the terms of a contract or the ownership of a piece of property. A civil suit can also result if someone is injured or property is damaged. For example, someone who breaks a leg when he or she slips on an icy stairwell may sue for compensation.[3]

Claims can be made for actions that are criminal in nature (i.e., a criminal act could be the basis of a civil claim, regardless of whether it was investigated, charged, or resulted in a conviction).

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[1] Government of New Brunswick, "Amendments aim to remove civil justice barriers for survivors of sexual assault and intimate partner violence" (media release). March 18, 2026.

[2] Department of Justice Canada, (2021), *Civil and Criminal Cases*, Government of Canada.

[3] *Ibid*.

In New Brunswick, the *Limitation of Actions Act* places time constraints on bringing claims forward based on "injury, loss or damage that was caused by or contributed to by an act or omission."[4] This is called a limitation period.

What is a limitation period?

There are two limitation periods: a fifteen-year period based on when an act or omission occurred and a two-year period based on when it was discovered. This allows for the fact that a claimant may not immediately know that an injury, loss, or damage has occurred due to an act or omission. They may also not immediately know who is responsible, which is a component of discoverability. Claimants have two years after discovery to bring a claim and it must also be within 15 years of the act or omission occurring.

The limitation period is suspended while claimants are minors or "incapable of bringing the claim because of his or her physical, mental or psychological condition."[5] Additionally, when "a claim is based on a continuous act or omission, the act or omission is deemed for the purposes of calculating the limitation periods [...] to be a separate act or omission on each day it continues."[6]

The civil justice system and gender-based violence

When it comes to addressing gender-based violence through justice systems, many people only think of the criminal system. The civil system, however, can be an important option for victims and survivors.

The criminal system has a long and ongoing history of failing and retraumatizing victims and survivors. Victims and survivors cannot control whether charges are brought forward or not—that decision resides with Crown prosecutors.[7] Proceedings of the criminal system are also public (though judges can issue orders for publication bans and close some parts of trials to the public to protect victims and survivors[8]).

In the civil system, victims and survivors are in control of whether they want to come forward as claimants—though that control is shaped by what resources they need to make a claim and whether they have access to them. The standard of proof in the civil system is based on a balance of probabilities, whereas conviction in the criminal system requires guilt beyond a reasonable doubt. In the civil system, victims and survivors may also be able to reach a settlement without ever having to file a suit; bringing a complaint to a workplace or association or threatening a suit may be enough to obtain a settlement.

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[4] *Limitation of Actions Act*, SNB 2009, c L-8.5, s 1(1).

[5] *Ibid.* s 17 and s 18(1).

[6] *Ibid*. s 6.

[7] In 2025, New Brunswick's pre-charge screening standard for Crown prosecutors changed from "a reasonable prospect of conviction" to "a reasonable likelihood." The latter is a higher bar. Additionally, the New Brunswick Crown Prosecutors Association has shared concerns that staffing shortages are impacting the justice system.

[8] Department of Justice Canada, (2026), *Trial*, Government of Canada.

Settlements typically release alleged wrongdoers from liability in the civil system in exchange for a payment or some other consideration. This means that they cannot be sued in the future for what the settlement covers—though this release does not shield them from the criminal justice system if their actions were criminal.

The outcome of this process, whether reached via a settlement or a decision from a judge, can provide the claimant with compensation. It can also involve negotiated statements that are to be used to describe the dispute and/or its resolution. Parties to the contract, including alleged wrongdoers, may want non-disclosure agreements as part of the settlement but government is contemplating legislation that may restrict this.[9]

Settlements and suits filed in the civil system can also bring instances and systemic patterns of violence—and institutional failures to address them—to light. It was, for example, an April 2022 civil suit for acts in 2018 that was the catalyst that brought Hockey Canada's multiple settlements for alleged sexual violence to light. This led to public outcry that resulted in the criminal investigation being re-opened, charges laid, and a reckoning over organizational funds being used for settlements for alleged wrongdoing.

The limitation period and gender-based violence

The dynamics and trauma of intimate partner violence (IPV), sexual violence, family violence, and disability-related violence can create significant delays in victims and survivors taking civil action. Given this, limitation periods can be a significant barrier to civil justice.

Government began to address this in 2010. At that time, the Act was amended to remove the limitation period for three types of claims—trespass of the person, assault, and battery—when they are sexual in nature. This was a positive change, though it only applied moving forward; the limitation period still applied to acts that occurred before the amendment came into effect.

The amendments tabled in 2026 built on the 2010 changes. They expanded the removal of the limitation period to include those three types of claims when:

> at the time of the act complained of, the claimant was in an intimate personal relationship, as defined in the *Intimate Partner Violence Intervention Act*, with the defendant or was financially, emotionally or physically dependent on the defendant.[10]

The Council understands that the provision on dependency is meant to address family violence that is not between intimate partners (e.g., parental violence against children; violence against a sibling) and disability-related violence (e.g., violence against persons with disabilities by caregivers or guardians). These forms of

[9] Legislative Services Branch, Office of the Attorney General, Government of New Brunswick, *Law Reform Notes* (#50, February 2026).

[10] *Limitation of Actions Act*, s 14.1.

violence often intersect with gender-based violence and are experienced at particularly high rates by women.

The removal of the limitation period applies even if the acts occurred before the law was updated. That retrospectivity (i.e., retroactivity) now applies to those acts when they are of a sexual nature as well. The amendments also specify that if a claimant previously had a suit dismissed due to the limitation period, their right to bring an action is revived so long as there is no legally binding settlement in place and the case has not been dismissed without the possibility of further appeal.[11]

There are, effectively, no longer any time-based constraints on bringing forward claims—regardless of when they occurred or were discovered—of trespass of the person, assault, or battery when they are sexual in nature, occurred during an intimate personal relationship, or occurred when the claimant was financially, emotionally or physically dependent on the defendant.

These changes will help ensure that limitation periods are no longer one of the barriers that victims and survivors face in accessing the civil legal system.

Potential gaps

While these changes are positive, the Council is concerned that the updated Act falls short of recognizing some of the realities of how IPV, family violence, and disability-related violence are perpetrated. As a result, the changes may not have their full intended impact—and government has missed an opportunity to help dispel myths and misunderstandings about how these forms of violence function.

For IPV, the removal of the limitation period applies when "at the time of the act complained of, the claimant was in an intimate personal relationship, as defined in the *Intimate Partner Violence Intervention Act*, with the defendant." The *Intimate Partner Violence Intervention Act* clearly includes violence between current or former intimate partners. This likely ensures that acts that are perpetrated after a relationship has ended would benefit from the exemption to the limitation period. However, the language of the Act may reasonably lead a layperson to believe that only those acts that were perpetrated during the relationship are exempted from the limitation period.

The Council has advised government that clarity on this point is essential given the barriers to justice that victims and survivors face and the prevalence of misinformation about IPV. This includes a lack of recognition that IPV can begin after separation and that the period after the relationship has ended is often the most dangerous.

For the removal of the limitation period due to dependency, there is no accounting for violence that continues or begins after the dependency has ended (though, of course, the violence that happened during

[11] *Ibid*.

it is exempted from the limitation period). In situations of disability-related dependency or family violence, the end of dependency may be the very thing that triggers violence. There is also no accounting for cases of family violence in which dependency was never a feature of the relationship. It's worth noting that *Family Law Act*'s definition of family violence doesn't refer to dependency.

In these cases, the victim or survivor's response can still be deeply shaped by factors that can delay civil action (e.g., shock, fear, feelings of loyalty, etc.) despite the absence of dependency. Given this, the Council has advised government to explore how to extend the removal of limitation periods to family and disability-related violence that extends or occurs for the first time after a dependency has ended or, in the case of some forms of family violence, when dependency is not a feature of the relationship.

Feasibility

Government may view these recommendations as unworkable as legislation is a particular tool with its own challenges, conventions, principles, and limits.

That is true—but it is also true that in June 2025, Members of the Legislative Assembly unanimously supported a motion urging government to declare gender-based violence an epidemic and systemic crisis.[12] The Council understood that this motion was meant to communicate how persistent, pervasive, and pernicious this violence is and to describe the well-resourced, deeply committed, whole-of-society response it requires. Such a response requires government to go beyond the status quo.

This is precisely the kind of policy issue where government must reckon with the gap between its rhetoric and its actions on gender-based violence and avoid reflexively dismissing challenging paths forward due to institutional preferences and norms.

After all, existing ways of working haven't yielded the desired results on an issue that Members of the Legislative Assembly have agreed is an epidemic and systemic crisis.

[12] New Brunswick Legislative Assembly, *Journals*, 61st Leg, 1st Sess, No 35 (5 June 2025) at page 3.