

# Sharing a Life: Manitoba Legislation Respecting Rights and Obligations of Common-Law Partners

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The coming into force of Bill 53, *The Common-Law Partners' Property and Related Amendments Act*<sup>1</sup> on 30 June 2004 completes the third and last stage of a comprehensive legislative initiative to address issues affecting individuals in common-law relationships.

The initiative began in the summer of 2001 with Bill 41: *An Act to Comply with the Supreme Court of Canada Decision in M. v. H.*<sup>2</sup> Bill 41 amended support and support-like provisions in ten different Acts.<sup>3</sup> Gender neutral definitions of "common-law partner" and "common-law relationship" made provisions applicable to persons in both same-sex and opposite-sex relationships. The threshold dependency test was eliminated, and the requisite period of cohabitation was reduced from five years to three for support claims by common-law partners without children. Most of the amendments in Bill 41 came into force on Royal Assent on 6 July 2001; the pension-related amendments came into force 1 January 2002.<sup>4</sup>

In the summer of 2002, two omnibus Bills were passed by the Manitoba Legislature that affected the rights and obligations of common-law partners. The first, Bill 34, *The Charter Compliance Act*,<sup>5</sup> was passed on 1 August 2002. It amended 56 Acts to address the rights and obligations of same-sex common-law partners and, in some cases, to extend rights and obligations of married spouses to all common-law partners, regardless of gender. Most of the amendments

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<sup>1</sup> S.M. 2002, c. 48

<sup>2</sup> S.M. 2001, c. 37

<sup>3</sup> Bill 41 *An Act to Comply with the Supreme Court of Canada Decision in M. v. H.* 2d Sess., 37<sup>th</sup> Leg., Manitoba, 2000–2001.

<sup>4</sup> An overview of Bill 41 appears in Schedule 1, at page 20 of this paper.

<sup>5</sup> S.M. 2002, c. 24

came into force when the Bill was passed; the remainder came into force on 1 January 2003.

*The Charter Compliance Act* included amendments to:

- *The Adoption Act*<sup>6</sup> to allow same sex common-law partners to apply jointly to adopt children in instances where opposite sex common-law partners could do so;
- make various conflict of interest provisions applicable to both same sex and opposite sex common-law partners;
- reinforce the applicability of *The Human Rights Code*<sup>7</sup>, in Acts containing provisions prohibiting discrimination;
- enable common-law partners to claim the body of a deceased partner under *The Anatomy Act*<sup>8</sup> and make decisions about their deceased partner under *The Human Tissue Act*<sup>9</sup>;
- consider persons in same sex common-law relationships in the same way as married and opposite sex common-law couples respecting eligibility for income assistance benefits; and
- enable common-law partners to change their surname on entering or leaving a common-law relationship without the need for a formal name change application.<sup>10</sup>

The second Bill affecting common-law partners was Bill 53, *The Common-Law Partners' Property and Related Amendments Act*, which extends Manitoba's family property regime to both opposite-sex and same-sex common-law partners. Upon breakdown of the partnership common-law partners will be able to share in the property accumulated during the relationship, and a surviving common-law partner will have a claim to property on his or her partner's death. Bill 53 is the primary focus of this paper.

*The Common-Law Partners' Property and Related Amendments Act* will come into force 30 June 2004. The amendments to *The Wills Act*<sup>11</sup> that would have caused a will to be automatically revoked when a testator's cohabitant becomes his or her common-law partner<sup>12</sup> will *not* be proclaimed. The issue of revocation

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<sup>6</sup> C.C.S.M c. A2

<sup>7</sup> C.C.S.M. c. H175

<sup>8</sup> C.C.S.M c. A80

<sup>9</sup> C.C.S.M. c. H180

<sup>10</sup> More information about the nature of the amendments in *The Charter Compliance Act* appears in Schedule 2, at page 23 of this paper.

<sup>11</sup> C.C.S.M. c. W150

<sup>12</sup> Clause 25(6)(b), subsection 25(8) and clause 25(9)(a) of Bill 53, *The Common-Law Partners' Property and Related Amendments Act*

of wills upon establishment of a common-law relationship is being considered further in the context of an ongoing Justice project reviewing wills and succession legislation in Manitoba.

## I. APPLICATION OF THE COMMON-LAW PARTNERS' PROPERTY LEGISLATION

### A. Who is a “common-law partner”?

Bill 53 creates a registry under *The Vital Statistics Act*<sup>13</sup>. Unmarried adults living in Manitoba will be able to jointly register their common-law relationship immediately upon its commencement or any time thereafter. When they register, partners must indicate the date their common-law relationship commenced. Upon registration of a relationship, Manitoba property laws will immediately apply to the partners. The Bill also amends other Manitoba legislation, so that those who register their common-law relationship will assume all the rights and obligations of “common-law partners” as soon as they register. Registered partners will be able to obtain a certificate from Vital Statistics attesting to the registration.

If common-law partners do not register, they will still be governed by the property regime (and other laws applicable to common-law partners) after they have cohabited in a conjugal relationship for the time specified in the Act in question. The requisite time period needed to qualify varies in the different statutes dealing with property, with three years' cohabitation being the most common. Cohabitation prior to the coming-into-force of the Act is included in this determination.

Under the renamed *Family Property Act*<sup>14</sup> (formerly *The Marital Property Act*) and *The Homesteads Act*<sup>15</sup>, the requisite period of cohabitation is three years. Under *The Intestate Succession Act*<sup>16</sup> and portions of *The Wills Act* it is three years, or one year if there is a child of the relationship. *The Pension Benefits Act*<sup>17</sup> (and other provincial pension legislation) applies to cohabiting common-law partners after one year if neither party is married or three years if either party is married.

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<sup>13</sup> C.C.S.M. c. V60

<sup>14</sup> To be referred to as chapter F25 of the *Continuing Consolidation of the Statutes of Manitoba*.

<sup>15</sup> C.C.S.M. c. H80

<sup>16</sup> C.C.S.M. c. I85

<sup>17</sup> C.C.S.M. c. P32

The amendments in Bill 53 apply to both same-sex and opposite-sex common-law partners. So long as they register or have cohabited for the required time period, the amendments will apply to all common-law couples who are cohabiting on 30 June 2004.

The amendments do *not*, however, apply to relationships that ended (from death or breakdown of the relationship) before Bill 53 came into force on 30 June 2004.

### **B. Why doesn't the same period of cohabitation apply in all Acts?**

While the criteria for determining whether a common-law relationship exists has been made as consistent as possible insofar as Acts of the same nature are concerned, one standard set of criteria for all Manitoba legislation was not feasible. A shorter time period was considered reasonable for some provisions (e.g. those dealing with conflicts of interest for public officials or the determination and payment of social assistance benefits), while a longer period or factors evidencing a more committed relationship was reasonable for others (e.g. sharing of family property). In addition to the policy objectives for certain provisions, effort was made to ensure that existing rights were not eliminated (e.g. the ability to seek support after one year of cohabitation where a couple has a child; entitlement to benefits under pension legislation after one year of cohabitation).

### **C. How is a common-law relationship terminated?**

Bill 53 also contains provisions dealing with "termination" of common-law relationships. Termination of a common-law relationship is not the same as separation, but a concept comparable to a divorce between married spouses. Just as some property and family laws stop applying to spouses once they separated or divorced for a certain period of time, the new laws take into account separation of common-law partners and termination of common-law relationships. The termination date affects some rights, such as the time within which a partner can apply to court for an accounting and equalization of family property. Some rights and responsibilities continue beyond termination, while others end when cohabitation ceases.

A common-law relationship that has been registered with the Vital Statistics Agency can only be terminated by registering a "dissolution" once the couple has lived apart for at least one year. Dissolution can be done jointly, or by one party alone after formal notice is given to the other. Again, partners will be able to obtain a certificate from Vital Statistics attesting to the fact their registered common-law relationship has been terminated.

If a common-law relationship was never registered, it can only be terminated by the passage of time. In most cases, this is three years of living apart.

#### **D. What about conflicts?**

By extending property rights and obligations to common-law partners, there will sometimes be conflicts between two or more claimants. Some of the Acts set out a priority scheme to address these conflicts. *The Homesteads Act* gives priority to the first spouse or common-law partner to acquire rights, until those rights are dealt with or resolved. Claims for an accounting and equalization of property under *The Family Property Act*<sup>18</sup> are based upon the period of time individuals cohabited as common-law partners and/or married spouses, as the case may be. Claims under that Act have priority over *Intestate Succession Act* claims. *The Intestate Succession Act* gives priority to the most current spouse or common-law partner.

#### **E. Opting Out**

These amendments do not prevent people from dealing with their property in a different way. A person can avoid the distribution scheme under *The Intestate Succession Act* by making a will. Like spouses, common-law partners can release their rights under *The Homesteads Act*. They can opt out of the property-sharing regime of *The Family Property Act* by entering into a written agreement opting out of the Act entirely or agreeing to a different distribution scheme. Opting out of Part IV (the after-death accounting and equalization provisions) requires specific wording. Opting out of the credit-splitting provisions of the pension acts<sup>19</sup> requires a written agreement, independent legal advice and receipt of a statement from the pension administrator.

#### **F. Other Information about *The Common-Law Partners' Property and Related Amendments Act***

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<sup>18</sup> C.C.S.M. c. F25

<sup>19</sup> The Chapter version of *The Common-Law Partners' Property and Related Amendments Act* (which incorporates amendments to the Bill made at the Statute Law Amendments Committee) can be accessed online at: <http://web2.gov.mb.ca/laws/statutes/2002/c04802e.php>. All of the proclaimed amendments in *The Common-Law Partners' Property and Related Amendments Act* will be incorporated in the electronic versions of the Acts in question and will be available online at: <http://web2.gov.mb.ca/laws>. Information respecting *The Common-Law Partners' Property and Related Amendments Act* and an electronic version of a public information brochure is also available on the Manitoba Justice website. These can be accessed at: <http://www.gov.mb.ca/justice/family/familyindex.html> (English) and <http://www.gov.mb.ca/justice/family/familyindex.fr.html> (French).

A summary of the impact of the amendments to each of the major property Acts appears in the next section. In addition, a list of all the Acts amended by *The Common-Law Partners' Property and Related Amendments Act* appears *infra* in Schedule 3 of this paper.<sup>20</sup>

## II. CHANGES TO PROPERTY LEGISLATION

Manitoba's family property regime comprises four primary Acts, or types of Acts, that - *The Intestate Succession Act*, *The Marital Property Act* (which will be renamed *The Family Property Act*), *The Homesteads Act* and pension legislation (*The Pension Benefits Act*, *The Civil Service Superannuation Act*<sup>21</sup>, *The Legislative Assembly Act*<sup>22</sup> and *The Teachers' Pensions Act*<sup>23</sup>).

There are many other Acts, such as *The Wills Act*<sup>24</sup> and *The Family Maintenance Act*<sup>25</sup>, that touch upon aspects of family property. All of these Acts are amended so that common-law partners will have the same rights and obligations towards each other that spouses have.

Acts are also amended to include common-law partners who have registered their relationship pursuant to *The Vital Statistics Act*. As indicated earlier, *The Common-Law Partners' Property and Related Amendments Act* creates a registry so that common-law partners who are adults living in the province may register their relationship immediately upon its commencement or at any time thereafter. Once registered, they will be governed by the family property regime. If common-law partners do not register, they will still be governed by the property regime after they have cohabited in a conjugal relationship for a specified time period. This dual system of a registry with a default provision allows people the greatest amount of choice in organizing their affairs while at the same time ensuring that the policy of equal sharing cannot be avoided by doing nothing.

The following is a summary of the impact of the amendments to each Act, followed by references to those sections in the Chapter version of *The Common-Law Partners' Property and Related Amendments Act* where the amendments appear.

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<sup>21</sup> C.C.S.M. c. C120.

<sup>22</sup> C.C.S.M. c. L110.

<sup>23</sup> C.C.S.M. c. T20.

<sup>24</sup> C.C.S.M. c. W150.

<sup>25</sup> C.C.S.M. F20.

*The Vital Statistics Act*

- Defines common-law relationship as the relationship between two adults who, not being married to each other, are cohabiting with each other in a conjugal relationship
- Allows both parties to a common-law relationship, if they are adults living in the province and wish to do so, to register their common-law relationship in accordance with section 13.1.
- Sets out, either in the Act or in regulations, the requirements for registration. Registering couples must specify the date the common-law relationship commenced and must declare that neither party is married to another person nor a party to another registered common-law relationship. There will be fees for registering a common-law relationship and for registering its dissolution.
- Allows one party alone or both parties jointly, to register the dissolution of their common-law relationship in accordance with section 13.2, by completing a statement in the form prescribed by regulation.
- A dissolution cannot be registered until the parties have lived separate and apart for at least one year.
- If the statement is signed by only one of the parties to the common-law relationship, it must be served on the other party in the manner set out in the regulations. Proof must be submitted to the Vital Statistics Agency that the statement was served on the non-signing party within 30 days before the date the statement is presented for registration.
- Various provisions are amended to include reference to common-law relationship registrations as well as birth or marriage registrations.
- Provisions are made for the issuance of certificates of the common-law relationships or the dissolution of a common-law relationship. Certificates or certified copies will only be issued to certain persons on application and payment of the prescribed fee. Forms for the certificates are also prescribed and certain minimum information is required.
- Conditional amendments to coordinate with other legislation that amended the Act.

### III. PRIMARY PROPERTY STATUTES

*The Homesteads Act*

- Adds a gender neutral definition of common-law partner of a person, which means
  - (a) another person who, with the person, registered a common-law relationship under *The Vital Statistics Act*, or
  - (b) subject to section 3.1, another person who, not being married to the person, cohabited with him or her in a conjugal relationship for a

period of at least three years commencing either before or after the definition comes into force.

- Adds a definition of common-law relationship, which means the relationship between two persons who are common-law partners of each other.
- Clarifies that only one spouse or common-law partner at a time may have rights in a homestead under the Act.
- Gives priority to the first spouse or common-law partner who acquires homestead rights in a property by providing that a second or subsequent spouse or common-law partner does not acquire such rights until the rights of the first spouse or common-law partner have been extinguished or satisfied.
- The Act will not apply to common-law partners who were living separate and apart on the date these amendments come into force 30 June 2004, unless they subsequently resume cohabitation and register their relationship under *The Vital Statistics Act* or resume cohabitation and continue to cohabit for at least 90 days after that.
- Allows the Court to terminate a common-law partner's homestead rights, where the common-law relationship has not been registered under *The Vital Statistics Act* and where the owner and the common-law partner have been living separate and apart for three years or more. In that case, the owner may apply to the court for an order terminating that common-law partner's homesteads rights, and the court may do so if it appears fair and reasonable under the circumstances. The court may make such an order subject to the conditions it considers appropriate, including payment to the common-law partner.
- The provisions of the Act regarding consent to disposition or change of homestead and release of homestead rights will include references to common-law partners and will provide that any consent or release executed in accordance with the Act is conclusive proof of the truth of the statements contained in it. It must also be shown that the spouse or common-law partner who executed it was the spouse or common-law partner of the owner named in it and the person having homestead rights in the property.
- The provisions of the Act making an owner liable for a fraudulent or wrongful disposition of the homestead will include references to common-law partners. A new provision will define a wrongful disposition as including a disposition where the owner, in good faith, obtains the consent of a spouse or common-law partner who does not have homestead rights under the Act and who fails to obtain the consent of the spouse or common-law partner who does have homestead rights.
- The provisions dealing with homestead notices and vacating those notices will also include references to common-law partners. The provision on vacating a homestead notice will require the district registrar to vacate a homestead notice on the filing of an order under subsection 10(1.1), terminating the homestead rights of the common-law partner on the filing of



proof satisfactory to the district registrar that a dissolution of the common-law relationship has been registered under *The Vital Statistics Act*.

- Clarifies that when the owner dies leaving a surviving spouse or common-law partner with homestead rights in the property, that person is entitled to a life estate in the homestead.<sup>26</sup>

#### *The Intestate Succession Act*

- Adds a gender neutral definition of common-law partner of an intestate, which means someone who, with the intestate, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or, unless the intestate died before 30 June 2004, someone who, not being married to the intestate, cohabited with him or her in a conjugal relationship commencing either before or after the definition came into force ( 30 June 2004), for a period of at least three years or for a period of at least one year and they are together the parents of a child.
- Adds common-law partners into the provisions that distribute a person's estate to his or her surviving spouse if the person dies without a will.
- Section 3 addresses the rights of separated spouses and is amended by renumbering it as subsection 3(1) and by changing a reference to *The Marital Property Act* to *The Family Property Act*. A new subsection, 3(2) is added which provides a parallel provision for separated common-law partners. Separated common-law partners will be treated as if they predeceased the intestate if any of four conditions is satisfied.
- If an intestate dies leaving both a spouse and one or more common-law partners or two or more common-law partners who are not otherwise excluded from the distribution of the intestate's estate, a new provision creates a priority scheme that prioritizes the claim of the spouse or common-law partner whose relationship with the intestate was most recent at the time of the intestate's death. However, the claim of the most recent spouse or common-law partner does not have priority over the claim of an earlier spouse or common-law partner under Part IV of *The Family Property Act* (accounting and equalization of assets accumulated during the marriage or relationship) and the entitlement of that earlier spouse or common-law partner under Part IV of *The Family Property Act* will be deducted from the most recent spouse or partner's claim under this Act rather than the claim of any children of another relationship.
- These amendments will only apply to people who die without a will on or after 30 June 2004.<sup>27</sup>

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<sup>26</sup> See section 10 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>27</sup> See section 13 of *The Common-Law Partners' Property and Related Amendments Act*.

*The Marital Property Act*

- Changes the title of the Act from *The Marital Property Act* to *The Family Property*.
- Adds a gender neutral definition of common-law partner of a person which means another person who, with the person, registered a common-law relationship under *The Vital Statistics Act* or, unless the parties separated before the amendments come into force, another person who, not being married to the person, cohabited with him or her in a conjugal relationship for a period of at least three years commencing either before or after 30 June 2004, the date of the coming into force of the definition.
- Adds common-law partners into the provisions that allow spouses to apply for an accounting and equalization of their assets and to other relief under the Act. To qualify as common-law partners, persons must have either registered their common-law relationship under *The Vital Statistics Act* or, unless they had already separated when the amendments come into force, have cohabited in a conjugal relationship for at least three years commencing either before or after the amendments come into force.
- Defines common-law relationship agreements to parallel spousal agreements.
- Changes the term marital home to family home.
- Clarifies that where a party is not entitled to any benefit under this Act because they know their marriage is void, the disentitlement is to any benefit as a spouse.
- Adds a new Division 1.1 dealing with the application of the Act to common-law partners. This new division sets out parallel rules for common-law partners with respect to their habitual residence. The new division also provides that the sections of the Act dealing with accounting and equalization of assets during the lives of the partners (as opposed to Part IV, accounting and equalization on death) do not apply to common-law partners who cohabited before 30 June 2004 but who had already separated as of that date, unless they resume cohabitation thereafter and either register their relationship under *The Vital Statistics Act* or continue to cohabit for at least 90 days thereafter.
- Currently, assets acquired before marriage are generally exempted from the application of the Act. The current exception to this rule is for assets acquired in contemplation of marriage. This is extended to assets acquired in contemplation of cohabitation and to assets acquired by spouses during a period of cohabitation immediately before marriage. Thus, if parties live together and then marry without any intervening period of separation, assets from the entirety of their cohabitation will be considered for the purpose of any accounting and equalization. Spouses who had already separated before these changes come into force will not be governed by this particular provision and they will continue to be governed by the previous rule.

- Other provisions regarding the application to assets of spouses are duplicated for common-law partners.
- Clarifies that common-law partners also have equal right to the use and enjoyment of their family home and to the use and enjoyment of other family assets.
- The current provisions regarding dissipation of assets, excessive gifts and transfers for inadequate consideration are amended so that they refer to spouses only and parallel provisions are set up for common-law partners.
- Part II of the Act deals with the sharing of assets and is also amended to include common-law partners.
- The provision allowing the court to depart from an equal division of commercial assets currently includes a number of factors that the Court may consider in making such an order. These factors are expanded to include common-law partners and also to refer to a period of cohabitation immediately before marriage.
- Under Part III of the Act, dealing with enforcement, a new provision is added to allow the Court to make an order determining the dates on which a common-law relationship commenced and terminated and the period of time that the common-law partners cohabited, if the partners have not already determined those facts or any of them by having registered their common-law relationship under *The Vital Statistics Act* or by having jointly registered its dissolution.
- Clarifies that common-law relationships are terminated in 2 ways; either by registering a dissolution of the relationship under *The Vital Statistics Act* (where the relationship itself is registered) or, by the common-law partners living separate and apart from one another for at least three years (where the relationship was not registered under *The Vital Statistics Act*).
- Time limits are added for common-law partners to make application to the Court for an accounting and equalization of assets after a common-law relationship has terminated. The limitation period is either 60 days from the date the dissolution of the common-law relationship was registered under *The Vital Statistics Act* (only available for common-law partners who registered their relationship under that Act) or three years from the date on which the partners began living separate and apart, (where the partners did not register their common-law relationship under *The Vital Statistics Act*). The Court can extend these limitation periods under certain circumstances.
- Part IV of the Act deals with accounting and equalization of assets on the death of a spouse. These provisions are extended to common-law partners, but only where the death occurs on or after 30 June 2004.
- The form of notice that a personal representative must serve on a surviving spouse is removed from the Act proper and replaced with reference to a notice in the form set out in a regulation made by the minister. The definition section of the Act defines minister as a member of the Executive Council

charged by the Lieutenant Governor in Council with the administration of the Act. A new provision clarifies that a personal representative must serve the spouse and all common-law partners if the deceased had both a surviving spouse and a surviving common-law partner or two or more surviving common-law partners.

- A new provision clarifies that the rights of a separated spouse or common-law partner under this Act take priority over the rights of a spouse or common-law partner under *The Intestate Succession Act*.
- Where *The Marital Property Act* is referred to in other statutes, the reference is changed to *The Family Property Act*.

### *The Pension Benefits Act*

- Currently, common-law partners who have been living together for at least 3 years if either of them is married, or for at least one year if neither of them is married, are entitled to survivor benefits and to share in their partner's pension under the Act. The amendments extend these benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long such partners have cohabited.
- Clarifies that, for the purposes of subsection 21(26), which deals with pre-retirement survivor benefits, a common-law partner is considered to have survived a member or former member only if they were cohabiting immediately before the death of the member or former member.
- The provisions of the Act allowing for the division of pension benefit credits on marriage breakup are extended to common-law partners generally and the current provisions allowing common-law partners to opt in to these provisions are repealed. Common-law partners and spouses still retain the ability to opt out of the pension division provisions on the receipt of independent legal advice and a statement from the pension plan administrator giving certain information. Such an agreement must be in writing and must be filed with the administrator of the affected pension plan.<sup>28</sup>

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<sup>28</sup> See section 19 of *The Common-Law Partners' Property and Related Amendments Act*.

*The Civil Service Superannuation Act*

- Currently, common-law partners who have been living together for at least 3 years if either of them is married, or for at least one year if neither of them is married, are entitled to survivor benefits and to share in their partner's pension under the Act. The amendments extend these benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long such partners have cohabited.<sup>29</sup>

*The Legislative Assembly Act*

- Will allow the Legislative Assembly Management Committee to make regulations with respect to retirement benefits for an additional purpose; that of ensuring equal treatment of members in relation to their families.
- Currently, common-law partners who have been living together for at least 3 years, if either of them is married or for at least one year if neither of them is married, are entitled to survivor benefits and to share in their partner's pension under this Act. The amendments extend these benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long such partners have cohabited.
- The provisions of the Act allowing for the division of pension benefit credits on marriage breakup are extended to common-law partners generally and the current provisions allowing common-law partners to opt in to these provisions are repealed. Common-law partners and spouses still retain the ability to opt out of the pension division provisions on the receipt of independent legal advice and a statement from the pension plan administrator giving certain information. Such an agreement must be in writing and must be filed with the pension plan administrator.<sup>30</sup>

*The Teachers' Pensions Act*

- Currently, common-law partners who have been living together for at least 3 years if either of them is married, or for at least one year if neither of them is married, are entitled to survivor benefits and to share in their partner's pension under the Act. The amendments extend these benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long such partners have cohabited.<sup>31</sup>

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<sup>29</sup> See section 2 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>30</sup> See section 15 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>31</sup> See section 21 of *The Common-Law Partners' Property and Related Amendments Act*.

#### IV. OTHER PROPERTY STATUTES

##### *The Family Maintenance Act*

- The Act allows common-law partners to seek orders of financial support and other relief from one another, if they have cohabited for at least three years or for at least one year and they are together the parents of a child. The amendments extend these rights and obligations to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long they have cohabited.
- Amends the definition of common-law relationship so that it is consistent with other statutes.
- Extends the right to seek an order of occupancy of a family residence to common-law partners and moves the provisions regarding occupancy, postponement of sale and restricted right of occupancy from section 13 into section 10 of the Act.
- Because common-law partners will be fully integrated into the provisions of the Act, subsection 14(1) is no longer required and is therefore repealed.
- A provision dealing with the jurisdiction of the provincial court is amended to refer to the changed occupancy provisions.<sup>32</sup>

##### *The Farm Lands Ownership Act*<sup>33</sup>

The provisions dealing with who may hold an interest in farm land allow eligible individuals to transfer farm land to their spouse, child, grandchild, brother, sister, nephew or niece. The eligible individual or his or her spouse must also have farmed the farm land for at least 10 years. These provisions are extended to common-law partners.

*The Charter Compliance Act* added common-law partners into the provisions defining persons related to farmers and allowing retired farmers and their spouses to continue holding all interests in farm land held by that person while still farming. These further amendments will deem any common-law partners who have registered their common-law relationship under *The Vital Statistics Act* to be cohabiting in a conjugal relationship of some permanence, regardless of how long they have cohabited.<sup>34</sup>

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<sup>32</sup> See section 6 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>33</sup> C.C.S.M. c. F35.

<sup>34</sup> See section 7 of *The Common-Law Partners' Property and Related Amendments Act*.

*The Insurance Act*<sup>35</sup>

- Adds a gender neutral definition of common-law partner of a person, which means
  - (a) another person who, with the person, registered a common-law relationship under section 13.1 of *The Vital Statistics Act*, or
  - (b) another person who, not being married to the person, cohabited with him or her in a conjugal relationship either for a period of at least three years or for a period of at least one year and they are together the parents of a child, except where either
    - (c) the dissolution of the common-law relationship has been registered under section 13.2 of *The Vital Statistics Act*, or
    - (d) the person has lived separate and apart from the other person for at least three years.
- Adds a definition of common-law relationship, which means the relationship between two persons who are the common-law partners of each other.
- Clarifies that family includes a common-law partner.
- Includes common-law relationships within the definition of family insurance in the part dealing with life insurance.
- Changes gender specific references to parents in the French version to make them gender neutral.
- Clarifies that common-law relationships are included within the definition of family insurance for the part dealing with accident and sickness insurance.
- Clarifies that a person may have an insurable interest in the life of his or her common-law partner as well as his or her own life and the life of his or her spouse, child and other specified individuals.
- Amends various provisions to clarify the inclusion of common-law partners.<sup>36</sup>

*The Law of Property Act*<sup>37</sup>

- As a result of amendments contained in *The Charter Compliance Act*, common-law partners are defined for the purposes of *The Law of Property Act* as persons who, not being married to each, are cohabiting and have cohabited for either at least three years or for at least one year and they are together the parents of a child. These further amendments will include persons who have registered their common-law relationship under *The Vital Statistics Act* within the definition of common-law partner, regardless of how long they have cohabited.

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<sup>35</sup> C.C.S.M. I40.

<sup>36</sup> See section 12 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>37</sup> C.C.S.M. c. L90.

- Section 19 of the Act provides that all joint tenants, tenants in common, mortgagees and other creditors having any lien or charge on, and all persons interested in land may be subject to partition or sale of the land. Subsection 19(2) allows the Court to order partition or sale without the consent of a spouse who has homestead rights in the property. The amendments extend these provisions to common-law partners.
- Section 24 of the Act allows the Court to determine the value of any homestead rights and order the payment out of that value. The provision is amended to refer to common-law partners as well as spouses, as common-law partners will have homestead rights.
- A coordinating amendment is required to coordinate these changes with those made in *The Charter Compliance Act*.<sup>38</sup>

### *The Wills Act*

- Adds two gender neutral definitions of common-law partner to the Act. The first is applicable to the Act except for sections 12, 13 and 14 and defines the common-law partner of a testator as (a) a person who, with the testator, registers a common-law relationship under *The Vital Statistics Act* or (b) a person who, not being married to the testator, is cohabiting or has cohabited with him or her in a conjugal relationship commencing either before or after the coming into force of the definition on 30 June 2004, either for a period of at least three years or for a period of at least one year and they are the together the parents of a child. The other definition of common-law partner is only for the purposes of sections 12, 13 and 14, which deal with who may witness a will or sign it on behalf of the testator. For the purposes of these sections, common-law partner of a person means (a) another person who, with the person, registers a common-law relationship under *The Vital Statistics Act* and who is cohabiting with the person or (b) another person who, not being married to the person, is cohabiting with him or her in a conjugal relationship of some permanence.
- Common-law partners are added into the attestation provisions in sections 12, 13 and 14.
- Changes gender specific references to spouse in two subsections of the French version and makes them gender neutral.
- New provisions are added to section 17 dealing with revocation by marriage, so that where a will is declared to be made in contemplation of a common-law relationship and the testator subsequently marries that common-law partner, the marriage does not revoke the will. Also, if a will fulfils obligations of the testator to a former spouse or common-law partner under a separation

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<sup>38</sup> See section 14 of *The Common-Law Partners' Property and Related Amendments Act*.



agreement or court order, the subsequent marriage of the testator will not revoke the will.

Where a will gives a bequest to the testator's common-law partner or names him or her as executor or trustee or confers a general or special power of appointment on the common-law partner and after making the will and before the testator's death the common-law relationship is terminated, then the bequest, appointment or power is revoked and the will is to be construed as if the common-law partner predeceased the testator. The section also sets out the ways a common-law relationship may be terminated.

*The Common-Law Partners' Property and Related Amendments Act* contained additional provisions that would have caused a testator's will to be automatically revoked once their partner becomes a "common-law partner" within the meaning of the Act (i.e. on registration of the relationship, after three years' cohabitation or after one year's cohabitation where the partners are together the parents of a child). These provisions of the Act are not being proclaimed [clause 25(6)(b); subsection 25(8) and clause 25(9)(a)]. This issue is being considered further in the context of an ongoing Justice project reviewing wills and succession legislation in Manitoba.<sup>39</sup>

## V. PROCEDURAL STATUTES

### *The Court of Queen's Bench Act*<sup>40</sup>

Clarifies that proceedings as between common-law partners in certain statutes are included within the definition of family proceedings and therefore fall within the jurisdiction of the Family Division of the Court of Queen's Bench. The specific legislation includes *The Law of Property Act*, the re-named *Family Property Act*, proceedings in respect of a separation, common-law relationship, marital property or family property agreement and a specified proceeding under *The Insurance Act*.<sup>41</sup>

### *The Court of Queen's Bench Surrogate Practice Act*<sup>42</sup>

By defining 'next of kin' of a person as including that person's spouse or common-law partner, clarifies that spouses and common-law partners can be

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<sup>39</sup> See section 25 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>40</sup> C.C.S.M. c. C280.

<sup>41</sup> See section 3 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>42</sup> C.C.S.M. c. C290.

next of kin and therefore are eligible to apply for the administration of the estate of a deceased spouse or partner.<sup>43</sup>

## VI. OTHER STATUTES

### *The Dependants Relief Act*<sup>44</sup>

- Under this Act, the common-law partner of a deceased is defined as a person who, not being married to the deceased, cohabited with him or her in a conjugal relationship for either at least three years or for at least one year and they are together the parents of a child. The amendments will include common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long they have cohabited.
- References to *The Marital Property Act* are changed to reflect the new name of that Act.
- In determining an application under *The Dependants Relief Act*, the Court must consider the financial needs of the dependant and all of the circumstances of the application. Subsection 8(1) includes a list of circumstances to be considered by the Court and clause (f), which refers to any distribution or division of property that the dependant has received or is entitled to receive under *The Homesteads Act* or *The Family Property Act* is amended to refer to circumstances where the dependant is a common-law partner as well as a spouse.
- Subsection 18(1) provides that the rights of a surviving spouse under *The Homesteads Act* and Part IV of *The Family Property Act* respecting the equalization of assets after the death of a spouse have priority over the rights of a dependant under *The Dependants Relief Act*. The provision is amended to include rights of a surviving common-law partner.
- Subsection 18(2) allows a surviving spouse to apply under this Act as well as under Part IV of *The Family Property Act*. The amendment clarifies that a surviving common-law partner is similarly entitled.<sup>45</sup>

### *The Manitoba Public Insurance Corporation Act*<sup>46</sup>

- Includes common-law partners who have registered their common-law relationship under *The Vital Statistics Act* within the provisions of the Act that govern common-law partners.

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<sup>43</sup> See section 4 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>44</sup> C.C.S.M. c. D37.

<sup>45</sup> See section 5 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>46</sup> C.C.S.M. c. P215.

- While they are cohabiting, persons who have registered their common-law relationship under *The Vital Statistics Act* are deemed to be cohabiting in a conjugal relationship of some permanence. They would therefore be captured by the definition of family and any other provisions that have that definition.<sup>47</sup>

*The Victims' Bill of Rights*<sup>48</sup>

- The Act allows common-law partners to obtain certain information about offenders and to seek compensation, if they meet the time tests set out in the Act. The amendments extend these rights and benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long they have cohabited.
- Clarifies that, while they are cohabiting, persons who have registered their common-law relationship under *The Vital Statistics Act* are deemed to be cohabiting in a conjugal relationship of some permanence.
- Coordinates amendments with Bill 34, *The Charter Compliance Act*, which also amended this Act.<sup>49</sup>

*The City of Winnipeg Charter*<sup>50</sup>

- *The City of Winnipeg Charter* (which came into force 1 January 2003) provides that any money used for an election campaign by a candidate out of his or her own funds or those of his or her spouse or common-law partner, will be considered as a contribution. The amendments extend this requirement to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long they have cohabited. The amendment clarifies that parties to a registered common-law relationship are deemed to be cohabiting in a conjugal relationship of some permanence and therefore are included within the meaning of 'family', where that term is used.
- Adds common-law partners of prohibited persons into a list of persons who may not bid on property sold by public auction for unpaid taxes.<sup>51</sup>

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<sup>47</sup> See section 20 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>48</sup> C.C.S.M. c. V55.

<sup>49</sup> See section 22 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>50</sup> S.M. 2002, c.39.

<sup>51</sup> See section 26 of *The Common-Law Partners' Property and Related Amendments Act*.

*The Workers Compensation Act*<sup>52</sup>

Currently, common-law partners who have been living together, either for at least three years immediately preceding the death of the worker, or for at least one year immediately preceding the death of the worker and the person and the worker are together the parents of a child, are entitled to compensation benefits on the death of the worker. The amendments extend these benefits to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long such partners have cohabited.<sup>53</sup>

**A. First Schedule of Statutes Amended**

(For some of these Acts, amending the term “common-law partner” was conditional on *The Charter Compliance Act* receiving Royal Assent, which it did on 1 August 2002.)

*The Anatomy Act*

*The Fatal Accidents Act*

*The Highway Traffic Act*

*The Human Tissue Act*

*The Mental Health Act*

*The Off-Road Vehicles Act*

*The Vulnerable Persons Living with a Mental Disability Act* C.C.S.M. c. V90

Each Act provides specific rights, benefits and/or obligations to common-law partners, if they have cohabited either for a specified period of time or if they have cohabited in a conjugal relationship of some permanence. The amendments extend these rights, benefits and obligations to common-law partners who have registered their common-law relationship under *The Vital Statistics Act*, regardless of how long they have cohabited.<sup>54</sup>

**B. Second Schedule of Statutes Amended**

(For some of these Acts, amendments to include the concept of cohabiting in a conjugal relationship of some permanence were conditional on *The Charter Compliance Act* receiving Royal Assent, which it did on August 1, 2002.)

*The Adoption Act*

*The Agricultural Producers' Organization Funding Act*

*The Animal Liability Act*

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<sup>52</sup> C.C.S.M. W200.

<sup>53</sup> See section 27 of *The Common-Law Partners' Property and Related Amendments Act*.

<sup>54</sup> See sections 1, 8, 9, 11, 17, 18 and 24 of *The Common-Law Partners' Property and Related Amendments Act*.

*The Builders' Liens Act*  
*The Change of Name Act*  
*The Charities Endorsement Act*  
*The Child and Family Services Act*  
*The City of Winnipeg Act*  
*The Civil Service Act*  
*The Communities Economic Development Fund Act*  
*The Consumer Protection Act*  
*The Cooperatives Act*  
*The Corporations Act*  
*The Credit Unions and Caisses Populaires Act*  
*The Department of Health Act*  
*The Development Corporation Act*  
*The Elderly and Infirm Persons' Housing Act*  
*The Elections Act*  
*The Executions Act*  
*The Family Farm Protection Act*  
*The Judgments Act*  
*The Landlord and Tenant Act*  
*The Legislative Assembly and Executive Council Conflict of Interest Act*  
*The Municipal Act*  
*The Municipal Council Conflict of Interest Act*  
*The Powers of Attorney Act*  
*The Privacy Act*  
*The Property Tax and Insulation Assistance Act*  
*The Public Schools Act*

Each of the listed Acts uses the concept of cohabiting in a conjugal relationship of some permanence, usually for the purpose of defining common-law partners or defining family to include persons who are so cohabiting. Amendments will clarify that persons who have registered their common-law relationship under *The Vital Statistics Act* will be deemed to be cohabiting in a conjugal relationship of some permanence, regardless of how long they have cohabited.<sup>55</sup>

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<sup>55</sup> See section 28 of *The Common-Law Partners' Property and Related Amendments Act*.

## VII. SCHEDULE I

### A. Bill 41: An Act to Comply with the Supreme Court of Canada Decision in *M. v. H.*

*An Act to Comply with the Supreme Court of Canada Decision in M. v. H.* came into force on 6 July 2001 (with the exception of the amendments to pension legislation which came into force 1 January 2002). It amended ten Acts with support or support-like provisions. As well as including persons in same sex relationships in a number of Acts, the Bill also significantly amended other aspects of the support provisions in both *The Family Maintenance Act* and *The Dependants Relief Act*. These amendments affected all common-law relationships.

Certain common themes existed in the amendments. In particular:

- The Bill used gender neutral definitions of “common-law partner” and “common-law relationship”, applicable to persons in both same sex and opposite sex conjugal relationships. (This was the approach taken in the federal Bill C-23, the *Modernization of Benefits and Obligations Act.*);
- The term “common-law partner” was defined (with some modifications from Act to Act) throughout;
- Expanded definitions of “spouse”<sup>56</sup> in the affected Acts were repealed. Spouses and common-law partners were referred to separately, the same approach taken in the federal amending legislation;
- While the criteria for determining whether a common-law relationship exists has been made as consistent as possible insofar as Acts of the same nature are concerned, one standard set of criteria was not feasible. Criteria vary from one Act to another for the establishment of a common-law relationship and entitlement to the benefits, and responsibility for the obligations, that flow from such a relationship. There are, however, certain similarities within certain types of legislation.

### B. *Inter Vivos* and After-Death Support Provisions

Amendments to the spousal support provisions in *The Family Maintenance Act* and *The Dependants Relief Act* were included in the Bill. An amendment to the definition of “family proceeding” in *The Court of Queen’s Bench Act* provided applications for certain relief by common-law partners would be heard in the Court’s Family Division.

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<sup>56</sup> I.e. those definitions of “spouse” that included common-law partners meeting certain criteria.

Previously *The Family Maintenance Act* allowed opposite sex common-law partners to seek "spousal" support in two circumstances: five years' cohabitation with one party being *substantially dependent* on the other; and one year cohabitation and a child of the union.

Common-law partners in the first category had to pass a threshold dependency test before being able to seek support, while common-law partners in the second category did not. As well as removing the requirement that cohabitants be of opposite genders, Bill 41 removed the prerequisite of dependency for common-law couples without children. By making the other "spousal" support provisions in *The Family Maintenance Act* applicable to support applications by common-law partners, dependency will still be a factor to consider (as it is with persons in married relationships or common-law relationships where there is a child of the union). Dependency is no longer a preliminary hurdle for some, but not all, common-law partners.

The Bill also reduced the requisite period of cohabitation for couples without children from five to three years.

Formerly *The Family Maintenance Act* required that a common-law partner apply for "spousal" support during the relationship or within one year after the relationship ended. Bill 41 removed this limitation period.

Bill 41 extended the other provisions in *The Family Maintenance Act* affecting or relating to spousal support to persons who meet the criteria to establish a common-law relationship. These provisions include those relating to the criteria for making an order, the impact of support agreements/releases, financial disclosure and the assignment of orders to social assistance.

The Bill also changed the definition of "dependant" (a person entitled to seek support from a deceased's estate) in *The Dependants Relief Act*. The requisite period of cohabitation was reduced from five to three years for couples where there is no child of the relationship. The requirement that cohabitants be of different genders and the financial dependency pre-requisite for cohabitants without a child of the relationship were removed. Subsection 2(1) of *The Dependants Relief Act* requires the court find a dependant appears to be in "financial need" before making an order for maintenance or support from an estate.

*The Dependants Relief Act* formerly provided that common-law partners' cohabitation must have been subsisting at the time of the deceased's death or have ceased within one year of the death. Bill 41 extended this period to include relationships where cohabitation ceased within three years of the death.

### **C. Pension Provisions**

The Bill contained amendments to *The Civil Service Superannuation Act*, *The Legislative Assembly Act*, *The Pension Benefits Act* and *The Teachers' Pensions Act*. These Acts contain both credit-splitting and death benefit/joint pension provisions.

Formerly, the Acts contained expanded definitions of "spouse." Under the Bill, common-law partners were separately defined and various sections were amended to refer to spouses and common-law partners. In addition, the Bill clarified that a common-law partner is entitled to survivor's benefits if cohabitation was subsisting at the time of the plan member's death.

Formerly, to be "common-law spouses" under the Acts, persons had to have cohabited for a period of three years where they were prohibited by law from marrying or for a period of one year where they were not prohibited by law from marrying one another. To ensure equal treatment of same sex and opposite sex couples, these provisions were amended to refer to different time periods depending on whether one partner was married, or neither was married, to another person.

#### **D. Death Benefit Provisions**

*The Fatal Accidents Act*, *The Manitoba Public Insurance Corporation Act* and *The Workers Compensation Act* were addressed. Each of these Acts provides for the payment of benefits to a common-law partner when the other partner dies as a result of circumstances giving rise to a claim under the Act in question.

The Acts require that cohabitation be subsisting at the time of the partner's death or accident. Again, the required period of cohabitation for couples without children was reduced from five years to three. Financial dependency is not a prerequisite.

#### **E. Coming into Force**

While some of the amendments in Bill 41 came into force on Royal Assent 6 July 2001, those relating to the four pension Acts came into force on 1 January 2002.

### **VIII. SCHEDULE 2**

#### **A. Bill 34, *The Charter Compliance Act***

*The Charter Compliance Act* was passed on 1 August 2002. It amended 56 Acts to address rights and obligations of same sex common-law partners and, in some cases, to extend rights and obligations of married spouses to all common-law partners. Most of the amendments came into force on Royal Assent (1 August 2002). Amendments to some Acts<sup>57</sup> came into force on 1 January 2003.

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<sup>57</sup> *The Adoption Act, The Change of Name Act, The Child and Family Services Act, The Credit Unions and Caisses Populaires Act, The Employment and Income Assistance Act, The Mental Health Act, The Public Schools Act, The Victims' Bill of Rights and The Vital Statistics Act.*



The amendments to *The Adoption Act* allow same sex common-law partners to apply jointly to adopt children in all instances in which opposite sex common-law partners can presently apply. Also, any two persons can apply jointly for a *de facto* adoption and any two members of a child's extended family can apply jointly for an extended family adoption. Agency investigations are mandatory for all extended family adoptions. In all cases where a joint application is made by two persons who are not in a conjugal relationship, the agency investigation must assess the stability of the applicants' relationship. The amendments to *The Adoption Act* also provide a gender neutral definition of common-law partner and clarify that common-law partners, whether of same or opposite sex, are included within the definitions of family and extended family.

Numerous statutes containing conflict of interest provisions were amended to make those provisions applicable to same sex common-law partners as well as opposite sex. In some cases such as *The Cooperatives Act* and *The Corporations Act*, where conflict of interest provisions only applied to married spouses, they were extended to all common-law partners.

Several Acts containing provisions prohibiting discrimination were amended to reinforce the applicability of *The Human Rights Code*, both in terms of the prohibited grounds of discrimination and the process for addressing instances of discrimination.

Several Acts dealing with professional corporations were amended to correct an anomaly created by then-recent changes to the federal *Income Tax Act*. The amendments allow opposite sex common-law partners to once again hold shares in professional corporations and extend these provisions to same sex common-law partners.

Other statutes were amended to recognize rights and obligations for same sex common-law partners in a variety of contexts. For example:

Under *The Anatomy Act*, common-law partners are allowed to claim the body of a deceased partner. A priority scheme is established to address the situation where there is both a legal spouse and a common-law partner.

Amendments to *The Change of Name Act* allow common-law partners to change their surname on entering or leaving a common-law relationship, without making a formal name change application.

Under *The Child and Family Services Act*, common-law partners are included in the definition of family and an unmarried woman will not be able to unilaterally enter into an agreement to surrender guardianship of her child to an agency, if she has a common-law partner.

Under *The Employment and Income Assistance Act*, persons in same sex common-law relationships are considered in the same way as married persons and opposite sex couples, for the purpose of determining eligibility for benefits.

Common-law partners, both same and opposite sex, are now able to make decisions about their deceased partners, under *The Human Tissue Act*. As with

*The Anatomy Act*, the amendments set out priorities as between spouses and common-law partners.

Under amendments to *The Vital Statistics Act*, when a woman gives birth to a child through artificial insemination, the birth registration may, with the common-law partner's consent, be completed showing the common-law partner as the father or other parent of the child. A consent can be submitted after the birth registration has been completed, but only to add the name of the common-law partner where that was originally left blank.

A list of the Acts amended by Bill 34 with a notation of the nature of the provisions affected by the amendments, follows.

## **B. Acts amended in Bill 34, *The Charter Compliance Act***

### **1. Adoption**

*The Adoption Act* (joint adoption)

*The Vital Statistics Act* (completion of birth registrations for children born of artificial insemination)

### **2. Conflict of Interest and Protection of the Public Interest**

#### **i. Acts pertaining to elected Public Officials**

*The Legislative Assembly Act* (power of LAMC to make certain regulations for equal treatment of families)

*The Legislative Assembly and Executive Council Conflict of Interest Act* (conflict of interest)

*The Municipal Council Conflict of Interest Act* (conflict of interest)

*The Public Schools Act* (conflict of interest)

#### **ii. Acts pertaining to Persons employed by or appointed by Publicly Funded Agencies**

*The Agricultural Producers' Organization Funding Act* (conflict of interest)

*The Communities Economic Development Fund Act* (conflict of interest)

*The Credit Union and Caisses Populaires Act* (conflict of interest)

*The Development Corporation Act* (conflict of interest)

*The Family Farm Protection Act* (conflict of interest)

*The Manitoba Public Insurance Corporation Act* (conflict of interest for MPIC Board members)

*The Mental Health Act* (sitting on review panel)

#### **iii. Acts which protect the Public Interest**

*The Animal Liability Act* (defence of liability of livestock at large lawsuit not available if due to spouse)

*The Civil Service Act* (preferential hiring for surviving spouse of military)  
*The Consumer Protection Act* (notices, collection practices, seizure)  
*The Cooperatives Act* (conflict of interest)  
*The Corporations Act* (self dealing)  
*The Department of Health Act* (recovering overpayment)  
*The Elderly and Infirm Persons Housing Act* (consider partner's income)  
*The Elections Act* (determining residency)  
*The Employment and Income Assistance Act* (consider partner's income)  
*The Municipal Act* (conflict of interest in tax sale bidding; certain property exempt from tax sale)  
*The Power of Attorneys Act* (witnessing)

### **3. Discrimination**

*The Defamation Act* (sue for injunction to prevent continuation of libel)  
*The Denturists Act* (prohibit discriminatory denial of membership)  
*The Discriminatory Business Practices Act* (prohibit discriminatory business practices)  
*The Law Enforcement Review Act* (prohibit discriminatory use of authority)  
*The Law of Property Act* (consent to give wages as security; prohibit restrictive covenants based on personal characteristics)  
*The Registered Respiratory Therapists Act* (prohibit discriminatory denial of membership)  
*The University of Manitoba Act* (prohibit discriminatory testing or qualification)

### **4. Incorporation of Professionals**

*The Certified General Accountants Act* (spouse may hold shares in professional corporation)  
*The Chartered Accountants Act* (spouse may hold shares in professional corporation; prohibit discriminatory denial of membership)  
*The Dental Association Act* (spouse may hold shares in professional corporation)  
*The Law Society Act* (spouse may hold shares in professional corporation)  
*The Medical Act* (spouse may hold shares in professional corporation)

### **5. Other**

*The Anatomy Act* (claiming a body)  
*The Builders' Liens Act* (exemption from requirement to distribute certificate)  
*The Change of Name Act* (application not needed to assume surname on entering relationship)  
*The Charities Endorsement Act* (canvassing by spouses permitted among organization members)

*The Child and Family Services Act* (right to notice, participation and services; voluntary surrenders of guardianship by mother only)  
*The City of Winnipeg Act* (use of campaign funds; personal property exempt from tax)  
*The Executions Act* (certain property exempt from seizure)  
*The Farm Lands Ownership Act* (rights of retired farmers to hold property)  
*The Highway Traffic Act* (various provisions using "family")  
*The Human Tissue Act* (consent to use of organs)  
*The Infants' Estates Act* (administering estate by "mother and father")  
*The Judgments Act* (certain farm property exempt from judgment sale)  
*The Landlord and Tenant Act* (certain property exempt from seizure by landlord)  
*The Marriage Act* (consent to marriage of minor by "mother and father")  
*The Municipal Assessment Act* (certain property exempt from municipal tax)  
*The Off-Road Vehicles Act* (transfer registration and plate to spouse on death)  
*The Privacy Act* (consider effect of breach for award)  
*The Property Tax and Insulation Assistance Act* (tax deferral)  
*The Victims' Bill of Rights* (rights to information about offender; compensation for spouse/partner of victim)  
*The Vulnerable Persons Living with a Mental Disability Act* (entitlement to notice; conflict of interest for hearing panels)

## IX. SCHEDULE 3

### **A. Acts Amended In Bill 53: *The Common-Law Partners' Property And Related Amendments Act***

*The Adoption Act* C.C.S.M. c. A2  
*The Agricultural Producers' Organization Funding Act* C.C.S.M. c. A18  
*The Anatomy Act* C.C.S.M. c. A80  
*The Animal Liability Act* C.C.S.M. c. A95  
*The Builders' Liens Act* C.C.S.M. c. B91  
*The Change of Name Act* C.C.S.M. c. C50  
*The Charities Endorsement Act* C.C.S.M. c. C60  
*The Child and Family Services Act* C.C.S.M. c. C80  
*The City of Winnipeg Act* SM 1990, c.10  
*The Civil Service Act* C.C.S.M. C110  
*The Civil Service Superannuation Act* C.C.S.M. c. C120  
*The Communities Economic Development Fund Act* C.C.S.M. c. C155  
*The Consumer Protection Act* C.C.S.M. c. C200  
*The Cooperatives Act* C.C.S.M. c. C223  
*The Corporations Act* C.C.S.M. c. C225  
*The Court of Queen's Bench Act* C.C.S.M. c. C280

- The Court of Queen's Bench Surrogate Practice Act* C.C.S.M. c. C290
- The Credit Unions and Caisses Populaires Act* C.C.S.M. c. C301
- The Department of Health Act* C.C.S.M. c. H20
- The Dependants Relief Act* C.C.S.M. c. D37
- The Development Corporation Act* C.C.S.M. c. D60
- The Elderly and Infirm Persons' Housing Act* C.C.S.M. c. E20
- The Elections Act* C.C.S.M. c. E30
- The Executions Act* C.C.S.M. c. E160
- The Family Farm Protection Act* C.C.S.M. c. F15
- The Family Maintenance Act* C.C.S.M. c. F20
- The Farm Lands Ownership Act* C.C.S.M. c. F35
- The Fatal Accidents Act* C.C.S.M. c. F50
- The Highway Traffic Act* C.C.S.M. c. H60
- The Homesteads Act* C.C.S.M. c. H80
- The Human Tissue Act* C.C.S.M. c. H180
- The Insurance Act* C.C.S.M. c. I40
- The Intestate Succession Act* C.C.S.M. c. I85
- The Judgments Act* C.C.S.M. c. J10
- The Landlord and Tenant Act* C.C.S.M. c. L70
- The Law of Property Act* C.C.S.M. c. L90
- The Legislative Assembly Act* C.C.S.M. c. L110
- The Legislative Assembly and Executive Council Conflict of Interest Act* C.C.S.M. c. L120
- The Manitoba Public Insurance Corporation Act* C.C.S.M. c. P215
- The Marital Property Act* C.C.S.M. c. M45
- The Mental Health Act* C.C.S.M. c. M110
- The Municipal Act* C.C.S.M. c. M225
- The Municipal Council Conflict of Interest Act* C.C.S.M. c. M255
- The Off-Road Vehicles Act* C.C.S.M. c. O31
- The Pension Benefits Act* C.C.S.M. c. P32
- The Powers of Attorney Act* C.C.S.M. c. P97
- The Privacy Act* C.C.S.M. c. P125
- The Property Tax and Insulation Assistance Act* C.C.S.M. c. P143
- The Public Schools Act* C.C.S.M. c. P250
- The Teachers' Pensions Act* C.C.S.M. c. T20
- The Vital Statistics Act* C.C.S.M. c. V60
- The Victims' Bill of Rights* C.C.S.M. c. V55
- The Vulnerable Persons Living with a Mental Disability Act* C.C.S.M. c. V90
- The Wills Act* C.C.S.M. c. W150
- The City of Winnipeg Charter* SM 2002, c.39
- The Workers Compensation Act* C.C.S.M. c. W200

