



# FAMILY COURT AND BEYOND

A SURVIVAL WORKBOOK  
FOR WOMEN



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# Luke's Place

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**Family Court and Beyond:  
A Survival Workbook for Women**

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One of the essential elements of this project was working with a focus group of women who have been through the family court system with abusive ex-partners. They provided input, feedback and shared their lived experiences during each step of the workbook's evolution. Thank you for your wisdom, strength and dedication to ending the cycle of violence in your own families and beyond.

Thank you to the Luke's Place staff who contributed to the workbook and the development of the accompanying workshops.

We would also like to acknowledge the input and support of our community advisory committee, which was made up of several women's organizations across Ontario who support women through the family court process.

Finally, thank you to everyone who envisions and works toward a future that is free from violence against women, children and society as a whole.

## SAFETY

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We encourage you to keep this workbook private and safe. Abusers will often attempt to gain power and control by getting access to your personal information and records. Hide printed material in a safe place, and ensure online or computer documents are stored on a secure device and are password protected. It is also important to keep this book away from your children as they may find it upsetting to read about your family law case; in addition, your ex-partner may pressure them for information.

## LEGAL DISCLAIMER

The material contained in this workbook is legal information and not legal advice. Only a lawyer who is aware of the facts of your situation can provide you with legal advice.

We strongly encourage you to obtain legal advice whenever possible before you make any major decisions about your case or agree to any suggestions made by your ex-partner or his lawyer.

The information in this workbook is accurate and current to the date of publication. Please be aware that laws, their interpretation and application, as well as services, change over time. We will do our best to update the online version of this workbook as we become aware of changes; however, if you are using a printed version, please note the copyright date to determine how current it is.

Luke's Place takes no responsibility for any use made of the information appearing in this workbook.

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# INTRODUCTION

## IS THIS WORKBOOK FOR ME?

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If you are a woman who is in an abusive relationship or thinking about leaving an abusive relationship, or if you have already left one and you want to know more about family law and court, this workbook is for you. The family law information in this workbook is specific to Ontario family law. These laws will be different from province to province and outside of Canada.

Even if you have already started to deal with your family law issues, you will find this workbook helpful.

Sorting out the many family law issues that come up at the end of a relationship, especially when you have an ex-partner who has been abusive, can be overwhelming. The more information you have – about the law, court processes, the people you will encounter on your journey – the better you will be able to manage your way through the system. You will be safer, feel more confident and be better able to make the many important decisions that lie ahead of you. You will also be in a better position to support your children, who may also find the process overwhelming.

### NOTE

Throughout this workbook, we use the words “woman” or “she/her” to refer to the person who is being subjected to abuse and the words “man” or “he/him/his” to refer to the person who is causing the abuse because that reflects the majority of these situations. However, this workbook is designed to assist any woman leaving an abusive relationship, regardless of the gender of the abuser. We define the word woman to include anyone who self-identifies as a woman.

## WHO ARE WE AND WHY HAVE WE WRITTEN THIS WORKBOOK?

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Luke’s Place Support and Resource Centre for Women and Children is a family law support centre for women leaving abusive relationships. We provide a wide range of direct services for women in Durham Region, Ontario, including:

- ◆ One-on-one support with our Family Court Support Workers
- ◆ Group support through legal information workshops
- ◆ Peer support groups
- ◆ Access to summary legal advice from our team of pro bono lawyers

Women across Ontario can access free summary legal advice through our Virtual Legal Clinic.

We also work on the provincial and national levels, conducting research, engaging in law reform advocacy, creating resources for frontline workers and women and developing and delivering both in-person and online training to workers, lawyers and others involved with family law.

After many years of providing family court support to women in our community who are leaving abusive relationships and training workers across Ontario, we have learned a great deal about the common challenges and barriers that women face. Based on this knowledge, we have developed tips and strategies to assist women in overcoming these challenges and barriers.

In this workbook, we bring together basic legal information about key issues that are likely to arise as well as tip sheets, worksheets and checklists to help you think about and organize your case.

## HOW SHOULD I USE THIS WORKBOOK?

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How you use this workbook will depend on a number of things:

- ◆ The legal issues with which you are dealing
- ◆ The stage of the process you have reached
- ◆ Your learning style, and so on

We strongly encourage you to work with a women's legal advocate throughout your family law case. Depending on where you live and what resources are available to you, you may be able to work with a counsellor at your community women's shelter who has experience with family court, a counsellor in another community agency or a Family Court Support Worker. For a listing of Family Court Support Workers throughout the province of Ontario please visit Ontario's Attorney General's website ([attorneygeneral.jus.gov.on.ca](http://attorneygeneral.jus.gov.on.ca)).

We suggest that you start by reading the Table of Contents so you can see which sections of the book you are interested in. Take a "need to know" approach and only read those sections that apply to your situation at the moment. Information can be a key tool in helping you to feel more empowered, but it can also feel overwhelming at times. Remember to use self-care techniques and take breaks or access support as needed when reading this workbook.

We have created two versions of this workbook to make it more accessible for women and service providers. A smaller version that contains the checklists and worksheets in this workbook can be found online at [FamilyCourtAndBeyond.ca](http://FamilyCourtAndBeyond.ca).

## WHAT SHOULD I DO IN AN EMERGENCY?

If you believe you or your children are in danger or at imminent risk of harm, please contact the police emergency line for support.

If you want to leave an unsafe relationship but you are not in immediate danger, please refer to the sections on safety planning in this workbook. It is important to have support and to stay as safe as possible when you separate from an abusive partner. A list of women's shelters in Ontario can be found at [sheltersafe.ca](http://sheltersafe.ca). You can also contact the Assaulted Women's Helpline at 1-866-863-0511 or TTY 1-866-863-7868.

Remember that you are not to blame for the abuse, but you can take steps to increase your safety and the safety of your children.



# INTIMATE PARTNER ABUSE

## WHAT IS INTIMATE PARTNER ABUSE?

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Intimate partner abuse is the abuse of power by one partner in a dating, common-law or married relationship. This abuse can be physical, sexual, emotional, financial, social, cultural or a combination of some or all of these. It creates a power imbalance between the two partners and can leave one partner feeling intimidated by and fearful of the other. Most often in heterosexual relationships, this abuse is perpetrated by men against their female partners, so it is also called woman abuse. The United Nations General Assembly (1993) defines woman abuse as “any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private.”

The impact of abuse can last long after the relationship ends, with the woman experiencing triggers, fears and panic attacks as a result of what her ex-partner did to her in the past.

### HOW DOES ABUSE RELATE TO THE FAMILY COURT SYSTEM?

Abusers often seek out new weapons to exert control over their partners or ex-partners, especially around the time of separation when they are starting to lose power in the relationship. In many cases, the family court system becomes one of those weapons. By equipping yourself with information and an understanding of the tactics of abuse and how they relate to the family court system, you can strengthen your defences against this form of abuse. In this book, we discuss abuse that occurs after separation (post-separation abuse) and legal abuse as well as strategies to help protect yourself.

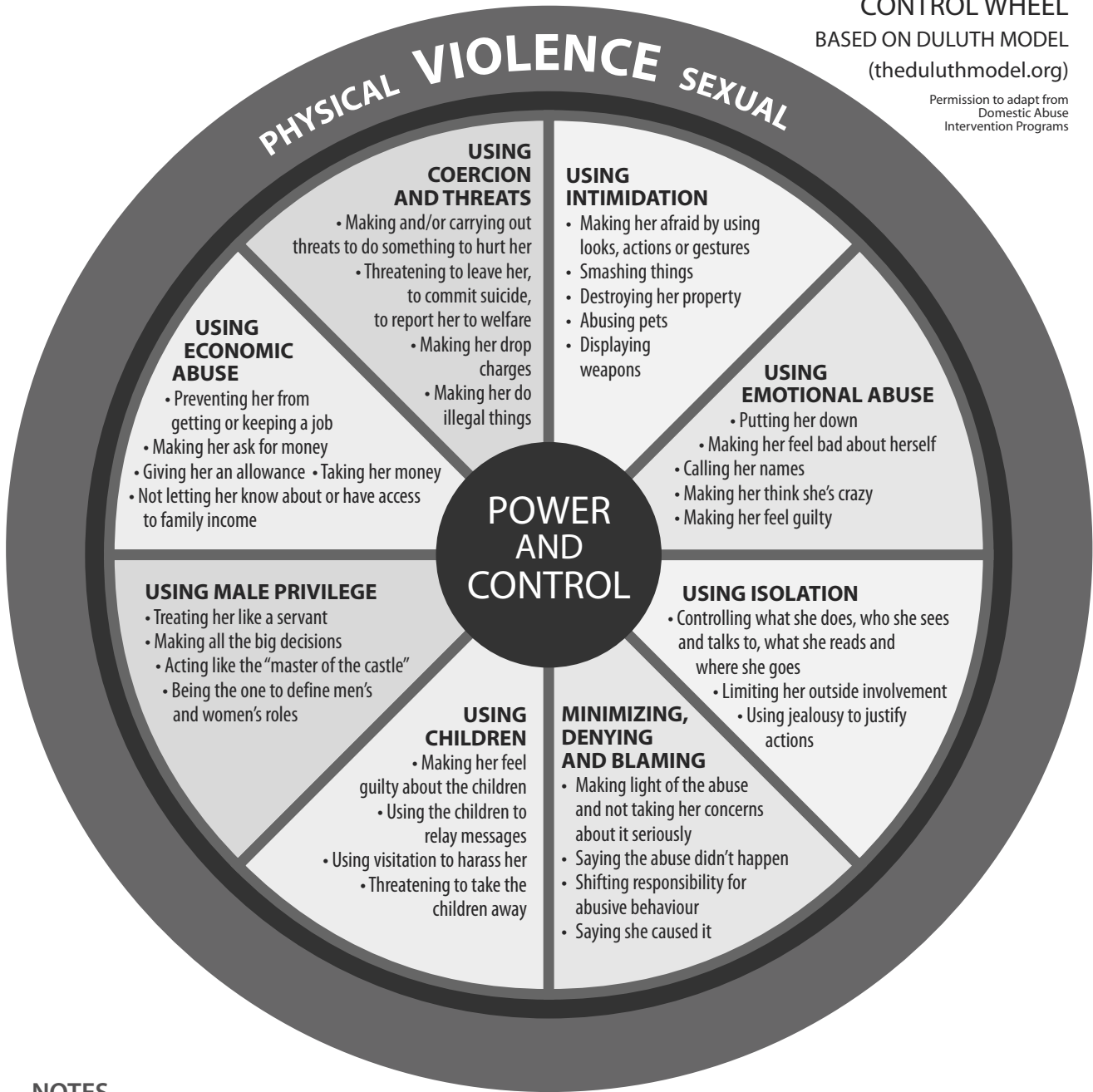
- ◆ Woman abuse is intended to induce fear, humiliation and control.
- ◆ It can occur in both heterosexual and same-sex relationships.
- ◆ Abuse may occur during a relationship, while the couple is breaking up or after the relationship has ended.
- ◆ Violence against women is not a result of someone losing control. It is the intentional control by one person of another. The abusive person is purposefully using verbal, non-verbal and/or physical means to gain control over the other person. In many cases, abusive partners are not abusive or violent to others outside the family or home.
- ◆ Woman abuse is a crime and a serious societal problem that has negative effects on the health, well-being and development of women, children, families and the community.
- ◆ Abuse is not limited to any single act or behaviour but rather involves a pattern of physical, sexual and/or psychological behaviours perpetrated by a current or ex-partner. It may or may not include physical violence.
- ◆ Abuse is intentional and, although there is a relationship between woman abuse and such factors as substance use or stress, these are not causes of woman abuse.



**POWER AND CONTROL WHEEL**

BASED ON DULUTH MODEL  
(theduluthmodel.org)

Permission to adapt from  
Domestic Abuse  
Intervention Programs



**NOTES**

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# SAFETY

## SAFETY PLANNING

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Having a safety plan is helpful for women staying in relationships in which they are being abused, as they are leaving and after they have left. Women are at the greatest risk of serious injury or harm around the time of separation. While your ex-partner's behaviour is unpredictable and beyond your control, you can make a safety plan to help increase your safety and reduce your risks. Never minimize the safety concerns you may have.

When you make a safety plan, it is important to remember that there is more involved than just physical safety. It is also important to protect yourself emotionally.

Creating a safety plan can be overwhelming. It is very helpful to work with a women's legal advocate who can assist you with developing your plan as well as provide you with support and referrals to other services you might need, such as financial and/or legal assistance.

## WHAT IS A SAFETY PLAN?

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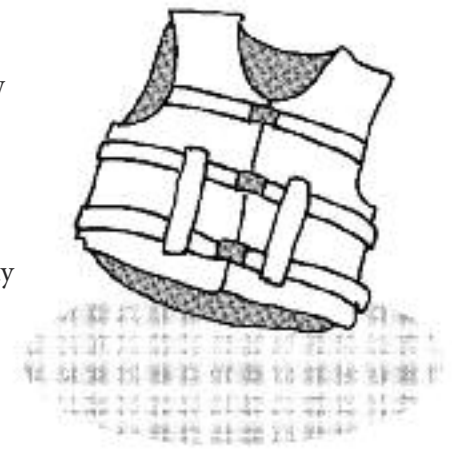
A safety plan is an individualized plan that reduces the risks of further abuse for you and your children. It should also include strategies for basic needs like income, housing, health care, food, child care and education for the children.

The details of your plan will depend on your situation – whether you are living with or separated from your partner, whether you plan to leave or to stay with him, your financial resources, your housing options, whether or not you have children, and so on. The plan will also be affected by the resources that are available to you.

Your plan must change as your circumstances change. You should review and revise it when there are changes in your life in order to make sure that it still meets your needs.

## SAFETY PLANNING STRATEGIES

You will know best what you need to do to stay safe. You probably already have strategies that keep you and your children safe. These will become part of your safety plan.









## MY SAFETY PLAN

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Your individualized safety plan should be designed to reduce the risks of further abuse for you and your children. You may want to make a few copies of this blank chart so you can include different measures as your situation changes. For example, what you need to stay safer when you are still with your partner is different from what you need when you first leave. You may need additional measures in place when you start your family law case and when you move into your own apartment or house.

Take some time to think of the protective measures you can put in place in the following areas of your life:

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**PHYSICAL** (be aware of your surroundings, car/transportation, workplace safety, etc.)

**EMOTIONAL** (boundaries, self-care, attend counselling, connect with friends and family, online safety, etc.)

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**SEXUAL** (consider medical testing, set boundaries, attend counselling, etc.)

**HEALTH/ WELLNESS** (visit doctor, self-care, exercise, healthy eating, limit substance use, etc.)

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**FINANCIAL** (set a budget, organize bank accounts, seek advice, change passwords, etc.)

**SPIRITUAL** (explore your sense of purpose, seek counselling, etc.)

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**HOUSING** (protect your address, plan escape routes, etc.)

**LEGAL** (learn about legal rights and options to protect self and children, etc.)

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**WHAT DOES THE LAW SAY?**

If you are married to your partner, the home the two of you shared is called the matrimonial home. The law says you each have an equal right to occupy that home, regardless of whose name is on the deed or the lease unless you have a court order or a legal agreement saying otherwise. This means you cannot legally change the locks on the house just because your partner has moved out.

If you have been living in a common-law relationship, occupation of the home you have been sharing legally belongs to whichever one of you has your name on the deed or mortgage. If both of your names are on either of these documents, then you both have a legal right to remain in the home. Even if your name is not on the deed or lease, you may be able to remain in the home.

**HOW CAN YOU GET AN ORDER TO KEEP YOUR EX-PARTNER OUT OF THE FAMILY HOME?****IN CRIMINAL COURT**

If your partner has been criminally charged as a result of his abuse of you, his bail conditions can contain a provision that he not return to the matrimonial (family) home. You can speak to the Victim/Witness Assistance Program (V/WAP) worker before the bail hearing to let her know you would like this condition. She can speak to the Crown Attorney, who will present a list of proposed conditions to the Justice of the Peace at the bail hearing.

Even if there is a condition keeping your partner out of the home, he will likely be given an opportunity to return, with police accompaniment, to pick up some personal belongings.

You should also remember that once the criminal case is over, the bail conditions come to an end. If the charges are dropped or your partner is found not guilty, he may have the right to come back to the family home.

**IN FAMILY COURT**

You can apply for an order for exclusive possession of the matrimonial home. To get this order, you have to prove to the court that there is a good reason for this, so you will have to talk about the abuse you have been subjected to and why you are fearful that your ex-partner might try to come back into the home.



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If you have children, you have to explain to the court why it is in their best interests that they and you remain in the home.

Getting an exclusive possession order has no impact on your ex-partner’s property rights to the home if it is owned. In other words, if you are married or if you live common-law and both your names are on the deed, your ex-partner still has a right to an equal share of the value of the home when you divide up all your property. The exclusive possession order is a short-term way to keep you safe by prohibiting your ex-partner from entering the home.

WHAT ABOUT CHANGING THE LOCKS?

Once you have an order that says your ex-partner cannot enter the family home, you may have the locks changed.

If you rent your home, changing the locks should be the landlord’s responsibility. Show them your order and ask that the locks be changed immediately. If your landlord is not prepared to do this, you can change the locks yourself, but make sure you leave the landlord with a copy of the court order to protect yourself.

WHAT IF I STILL DON'T FEEL SAFE?

These strategies can help you be and feel safer in your home once you have obtained an order that keeps your ex-partner out. However, there is no way to absolutely guarantee he won't be able to get into the home.

To ensure you are as safe as possible in your home and in the community, work with your local women’s shelter to develop a plan for yourself and your children.

If you still do not feel safe in your home, consider going to a women’s shelter or a new address unknown to your ex-partner.

CAN MY EX-PARTNER STILL GET INTO THE HOUSE?

Sometimes, an ex-partner will call a locksmith and claim he locked himself out of the house and needs to get in. Locksmiths are supposed to see identification with that address on it before they let someone without a key into a house, but not all take this step. Even if the locksmith does ask for I.D., your ex-partner may still have identification with the family home address on it. If you are at home when the locksmith appears to let your ex-partner in, you can show them the order, which should be sufficient to keep your ex-partner out.

It is more likely that your ex-partner will try to get back into the house when you are not there. Here are some suggestions for what you can do to stop this from happening:

- ◆ When you hire a locksmith to change the locks, leave a copy of the court order with them, and, depending on the number of locksmiths in your community, consider giving each of them a copy.
- ◆ Post a copy of the court order or a note explaining that there is a court order in a window (posted on the inside) near each exterior door. You could include a telephone number of someone the locksmith can call to verify the information.
- ◆ Consider installing a high security lock when you change your locks. These are very hard to pick, which makes it less likely the locksmith would be able to let your ex-partner back into the house. These locks are expensive, so if buying one is out of reach financially for you, call your local women’s shelter to find out where you might be able to get some assistance with this.















## CHART

## IDENTIFYING TECHNOLOGY ABUSE

Technology abuse is serious, and threats made online or in texts are real. Use this chart to think about how your ex-partner is using technology in his efforts to control and intimidate you. Then consider which strategies you need to use to keep you and your children safe and how much outside help (technical expertise, police) you may need. Keeping a record of this information is also helpful as evidence of abuse for your family law case. Learn more in the “Evidence” section.

## UNWANTED COMMUNICATION

## DETAILS (DATES, NUMBER OF TIMES, CONTENT, ETC.)

 Repeated texts

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 Abusive texts

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 Repeated phone calls

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 Abusive phone calls

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 Repeated emails

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 Abusive emails

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 Repeated social media  
messaging  
(include # times per day)

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 Abusive social media  
messages

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## SURVEILLANCE

## DETAILS (DATES, NUMBER OF TIMES, CONTENT, ETC.)

- He has access to GPS on my phone.
- He has access to GPS on my car.
- We share a phone/internet billing account (e.g., Rogers, Bell).
- He has access(ed) to my phone, laptop, tablet.
- I have found/suspect there is spyware (hidden software) on my devices.
- I have found/suspect there are hidden cameras in my home, kids' toys.
- He knows more about me than he should.

## ATTACKS

- He has, or says he has, sexual photos of me.
- He posted sexual photos or videos of me online or sent them to others.
- He pretended to be me in social media, email, etc.
- He hacked into my account (email, Facebook, bank, etc.).
- He says bad/embarrassing things about me online.



# LEGAL BULLYING

Legal abuse often accelerates at the time of separation since this is one of the few remaining ways your ex-partner can attempt to control and harass you.

## COMMON LEGAL BULLYING STRATEGIES

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Your ex-partner may:

- ◆ Make it difficult for you to find a lawyer by “consulting” with all the family law lawyers in your community before you have a chance to call one. This creates a situation of conflict for lawyers so they cannot represent you.
- ◆ Engage in stalling tactics such as not finding a lawyer, making it difficult for you to get your case started or to move it along.
- ◆ Miss his mandatory information program session.
- ◆ Fail to complete his court documents on time.
- ◆ Try to file incomplete court documents.
- ◆ Ask for repeated adjournments so he can complete his court documents.
- ◆ Refuse to provide complete financial disclosure (e.g., by not completing the financial statement fully or honestly).
- ◆ Try to divert your attention away from what he is doing legally.
- ◆ Seek repeated delays for no real reason.
- ◆ Repeatedly change lawyers.
- ◆ Fail to show up for scheduled mediation sessions.
- ◆ Change his mind repeatedly after you have agreed on something.
- ◆ Make malicious and unfounded allegations about you to the CAS, OW, ODSP.
- ◆ Make official complaints about his lawyer, your lawyer, the judge and anyone else who is involved with your case.
- ◆ Lie in his court documents.
- ◆ Harass you at court, in the days leading up to court appearances, when you are coming and going from court.
- ◆ Bring family members and/or friends to court with him to create an intimidating atmosphere in the waiting area.
- ◆ Bring repeated motions on issues that have already been decided or on very small issues that can be resolved without a motion.
- ◆ Refuse to follow court orders.
- ◆ Appeal decisions even when there is no possibility of success.
- ◆ Represent himself even though he would qualify for a legal aid certificate or could afford to pay for a lawyer himself.
- ◆ Run up your legal bill or eat up the hours on your legal aid certificate by using up your lawyer’s time with unnecessary correspondence, phone calls, etc.

### WHEN CRIMINAL LAW IS INVOLVED

If your ex-partner has been charged in criminal court, he might bully you in family court by:

- ◆ Trying to delay the family court proceeding until the criminal case is over.
- ◆ Offering to “make a deal” with you that he won’t fight you over arrangements for the children if you won’t testify against him in criminal court.

If you have been charged, your ex-partner might try to use this against you in family court, even if the facts do not support the charge you are facing. Your ex-partner might also try to interfere with your ability to find affordable housing, to get your children into child care, to enter an employment program, etc.









# SELF-CARE

Leaving a relationship in which you have been abused and going through the family court system are both very stressful. Self-care during this time of your life is important and can have a positive impact on your healing process and energy as you move forward. The next several pages will walk you through the process of developing your own self-care plan. This is a long-term plan for reducing your stress and honouring your mind, body and spirit.

In the following chart, check the self-care strategies that you are already following, want to try or have decided may not be for you. You can use this list as a guide to develop your own self-care plan on the pages that follow.

CHECKLIST	SELF-CARE		
EMOTIONAL / SPIRITUAL	Already doing it	Will give it a try	Not for me
Find ways to praise myself every day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ask for help when I need it.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Build time for self-reflection into my day, even if it is just five minutes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Let myself cry.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Find a reason to smile or laugh every day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Make sure to have some quiet time every day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Listen to the kind thoughts I tell myself and believe what I hear.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Be creative – draw, paint, write or cook.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spend time in nature.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Explore my spirituality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Read inspirational books.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>





**SOCIAL**

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Already doing it  
Will give it a try  
Not for me

**NOTES**

Make new friends with people who value me for who I am and who make me feel good about who I am.

Build a small group of friends with whom I feel safe sharing my story.

Know how to say no and set boundaries.

Find new interests that let me meet new people.

Do something every week that I feel passionate about and that brings me joy.

Volunteer or join a cause.

**FINANCIAL**

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Set up my own bank account at a different financial institution from where my ex-partner banks.

Get a credit card in my name only.

Establish a budget for my family's regular expenses.

Put money every week/month into a "treat" fund, even if it is only a few dollars at a time.

**WORKPLACE / WORK AT HOME**

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Find purpose and meaning in my work.

Maintain work-life balance.

Have positive relationships with co-workers.

Use boundaries to protect myself.

**PSYCHOLOGICAL**

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Understand that grieving is a healthy part of the journey I am on.

Give myself permission to feel angry.

Get professional help when I need it.

Build balance into my life.



## MY PERSONAL SELF-CARE PLAN

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Three things I want to tell myself when I am feeling overwhelmed:  
(e.g., "I am strong," "I can handle this," "I am safe," "I am making a better life for myself and my kids.")

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

These are the friends, family members and professionals I can talk to who help me feel better:

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These are the people I will avoid or limit my contact with:

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These are the things that make me happy and healthy:  
(e.g., uplifting music, a favourite comedy, a favourite place to go, getting organized, etc.).

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## MY PERSONAL SELF-CARE PLAN

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EMOTIONAL/SPIRITUAL

PHYSICAL

SOCIAL

FINANCIAL

WORKPLACE

PSYCHOLOGICAL

# EVIDENCE

## WHY EVIDENCE IS SO IMPORTANT

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The outcome of your court case will depend significantly on the evidence you provide to the court. This is true in every family court case, but it is especially true in cases involving abuse, because the impact of abuse is still misunderstood by many in the family law system.

Whether you are preparing your own paperwork or working with a lawyer who will prepare the court documents, you have an important role in providing as much detailed information as possible.

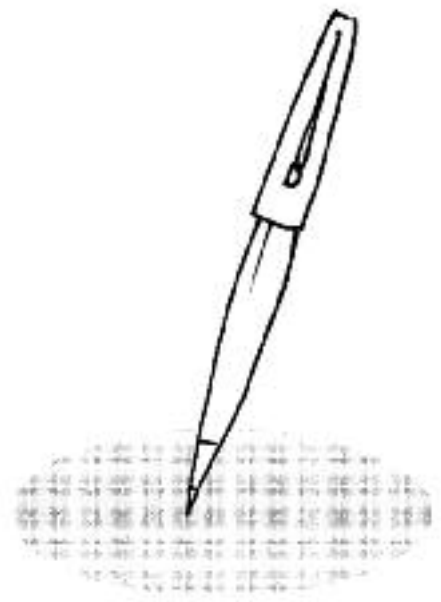
In the vast majority of cases involving violence against women, the perpetrator will deny or minimize the abuse. As a result, the court is left with what is known as the “he said/she said” problem. The court has the daunting task of trying to determine which version of the facts is more believable: yours or your ex-partner’s.

You need to be able to present persuasive evidence to the court so that details about the violence you have been subjected to are exposed. This can be challenging.

There are not often witnesses to woman abuse. In most families, it takes place behind closed doors where there is no one but you and possibly the children to see and hear what is happening.

You may have downplayed or even denied the abuse because you were embarrassed, thought it was a private matter or were threatened by your partner about what he would do to you or others if you told anyone. You may now fear that your children will be negatively affected if the violence is discussed in court.

Unfortunately, some of the people you will encounter in family court – court staff, mediators, lawyers and judges – still believe that women make up or exaggerate abuse to try to give themselves an advantage in family court. Your evidence can help overcome this hurdle and help those who need to know about it understand just how serious your situation is.







































# WORKING WITH A LAWYER

Just as most of us would not try to fix our car ourselves or diagnose and treat medical issues, you should not try to manage your family law case without the assistance of a lawyer who has experience in family law. In any family law case, but especially in cases involving family violence, the knowledge, expertise and skills of a good lawyer can make the case move more quickly and smoothly and can make a good outcome more likely.

Ideally, you will be able to hire (retain) a lawyer to handle your entire case, either by paying for the lawyer yourself or with a legal aid certificate.

However, if that is not an option, you may be able to find a lawyer who offers unbundled services, which means they will represent you on specific issues in your case. For example, you may be able to get a legal aid certificate for your child-related issues but not for property division. In this situation, your lawyer will handle the child-related part of your case, but you will have to represent yourself to get a division of property.

A new service some lawyers are now offering is something called legal coaching. In this arrangement, the lawyer does not represent you (e.g., does not complete your court documents or appear in court on your behalf) but answers your questions, helps you prepare for court appearances and reviews documents you have prepared, providing you with suggestions for any necessary changes.

Many people have to represent themselves during the family law process, because they cannot afford to pay for a lawyer and do not qualify for legal aid. If this is your situation, it will still be important to seek advice on certain issues and at specific points in time.

Whether or not you have a lawyer, we strongly encourage you to work with a women's legal advocate throughout your case. This advocate can assist you by:

- ◆ Explaining the steps in the case
- ◆ Helping you identify the legal issues you want/need to address
- ◆ Supporting you to develop a safety plan













with your lawyer and, if that is not satisfactory, with LAO. You want to be sure that your lawyer is using the limited time provided by your legal aid certificate as effectively as possible.

## LEGAL AID

Depending on your financial situation, including your income and whether you own property, you may qualify for assistance from Legal Aid Ontario (LAO). LAO can provide you with what is called a certificate to cover all or part of your lawyer's bill. There are a number of different arrangements LAO can make:

- ◆ You may qualify for a certificate that covers all your legal costs for all your legal issues.
- ◆ You may qualify for a certificate that covers only some of the legal issues you are dealing with.
- ◆ If you own a home, LAO may put a lien on the house, which means that when you sell it, LAO will be paid money from its sale to cover the cost of your lawyer.
- ◆ LAO may have you enter into a contribution agreement, which means that LAO covers your legal costs but you have to pay back some or all of this money in the future.

You can get more information from the LAO website: [legalaid.on.ca](http://legalaid.on.ca). You can also talk to someone at LAO by calling 1-800-668-8258. LAO has special services to help people who have been subjected to domestic violence. If the worker taking your application does not ask if you have been subjected to abuse, you need to provide that information.

Because your legal aid certificate may not cover all the legal issues you are dealing with, you should ask both LAO and your lawyer to explain exactly what is and is not covered. Even if something is not covered when you get your legal aid certificate, your lawyer can request additional coverage as your case progresses. The lawyer writes an opinion letter to LAO explaining why they need additional time or need to assist you with an issue not already covered, and LAO makes a decision about whether or not to grant the lawyer's request. If your case has to go to trial, your lawyer will need to request coverage for this from LAO.

For more information about LAO, see our Legal Aid Ontario fact sheet.

## VIRTUAL LEGAL CLINIC

Luke's Place operates a Virtual Legal Clinic (VLC), which provides **free summary legal advice to women** in Ontario who are leaving relationships in which they have been abused. The VLC connects women to trained family law lawyers via video conferencing or the telephone. The lawyers provide summary legal advice, meaning they will advise a woman on her legal problem, but they will not go with her to a hearing. There are no financial criteria.

You can use the VLC if you:

- Have experienced violence or abuse in your relationship
- Have a family law legal issue
- Do not have a lawyer for the legal issue you wish to discuss

To learn more, visit our website: <https://lukesplace.ca/for-women/lukes-place-virtual-legal-clinic>, call **1-866-516-3116** ext. **235**, or email [Intake@LukesPlace.ca](mailto:Intake@LukesPlace.ca).

## ABOUT LEGAL AID

If you have received a legal aid certificate to pay for your lawyer, you have the same rights as someone who pays for a lawyer, and your lawyer has the same professional obligations and responsibilities.

**CHART**

**WHO'S RESPONSIBLE FOR WHAT?**

The following chart sets out key responsibilities/tasks and identifies who is responsible for them: the lawyer, the woman or her women's legal advocate.

**WHO'S RESPONSIBLE:**

- You
- Legal Advocate
- Lawyer

- ◆ Your women's legal advocate can help you by providing a list of names of possible lawyers.
- ◆ You are the one who has to decide which of those lawyers is best suited for what you need.

**FINDING A LAWYER**

**WHO'S RESPONSIBLE:**

- You
- Legal Advocate
- Lawyer

- ◆ You will contact your lawyer's office to arrange the first appointment, which will be scheduled for the next date your lawyer has available.
- ◆ You will probably arrange this appointment by talking to the receptionist or law clerk in the lawyer's office.

**SETTING UP THE FIRST APPOINTMENT**

**WHO'S RESPONSIBLE:**

- You
- Legal Advocate
- Lawyer

- ◆ At your first appointment, your lawyer should explain to you what their role includes and does not include.
- ◆ Make a list of everything you want to know about the lawyer's responsibilities. Take this list to your first appointment, and ask the lawyer about anything they do not mention.

**EXPLAINING THE LAWYER'S ROLE**

**WHO'S RESPONSIBLE:**

- You
- Legal Advocate
- Lawyer

- ◆ It is up to your lawyer to tell you about the costs of handling your case.
  - If your lawyer is being paid by Legal Aid Ontario, they should tell you how many hours of work LAO is paying for and what they think can be done in that amount of time.
  - If you are paying the lawyer's fees yourself, your lawyer should tell you their hourly rate as well as what some of the additional expenses (called disbursements) are likely to be.
- ◆ If your lawyer does not bring this up in your first appointment, you should ask about it.

**EXPLAINING THE COSTS**

## COMMUNICATION

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### WHO'S RESPONSIBLE:

- You   
 Legal Advocate   
 Lawyer

- ◆ All three of you are responsible for effective communication.
- ◆ You should bring a list of questions to meetings with your lawyer. Your women's legal advocate can assist you with this.
- ◆ You should be as clear as possible in telling your lawyer what you want in your case and what you want the lawyer to do.
- ◆ Either you or your women's legal advocate should be prepared to take notes during your meetings with your lawyer.
- ◆ Your lawyer is responsible for explaining things to you in clear, plain language so you can understand, but it is up to you to let your lawyer know when you don't understand something.
- ◆ It is your lawyer's job to respond promptly to your questions, telephone calls or emails, but it is your job to limit the number of communications with your lawyer between appointments to urgent issues.

## PREPARATION FOR MEETINGS

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### WHO'S RESPONSIBLE:

- You   
 Legal Advocate   
 Lawyer

- ◆ Working with your women's legal advocate, you should prepare for every meeting you have with your lawyer.
  - This includes making sure you have booked enough time to get to and from your appointment so you can be there on time, arranging for child care, putting together a list of the topics you want to cover in the appointment as well as any questions you want the lawyer to answer.
- ◆ Your lawyer is responsible for having reviewed your file prior to each appointment so they are up to speed with your case and are ready to provide you with information, take your instructions and answer your questions.

## EXPLAINING LEGAL OPTIONS/ PROVIDING LEGAL ADVICE

---

### WHO'S RESPONSIBLE:

- You   
 Legal Advocate   
 Lawyer

- ◆ Only your lawyer should explain your legal options/give you legal advice. You give your lawyer information about your situation and tell them what outcomes you would like to get from your case, but it is the lawyer who tells you what is legally possible and what they think is the best legal course of action.

## COMPLETING DOCUMENTS

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### WHO'S RESPONSIBLE:

- You   
 Legal Advocate   
 Lawyer

- ◆ It is your lawyer's job to complete all the paperwork required in your case.
  - However, it is your job to review those documents and let the lawyer know if you've found a mistake or if there's something with which you don't agree.

## SERVING DOCUMENTS

---

WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ Your lawyer is the one who serves court documents on your ex-partner. If your partner has a lawyer, the documents will be served on them; if not, they will be served on your ex-partner directly.

## COMMUNICATING WITH YOUR EX-PARTNER

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WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ Your lawyer is responsible for all legal communication with your ex-partner: to his lawyer, if he has one; to him directly, if he does not.
- ◆ You, however, may also be in communication with your ex-partner about ongoing details such as issues relating to the children. You should follow your lawyer's advice about when and how to be in touch with your ex-partner.

## KEEPING TRACK OF YOUR CASE

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WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ Of course, your lawyer will have a file of everything related to your case, but it is very important for you to keep all this information too.
- ◆ You should set up an organized filing system at the beginning of your case and make sure you get copies of everything your lawyer has.
  - Your women's legal advocate may be able to help you with this.

## FOLLOWING UP BETWEEN APPOINTMENTS

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WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ Your lawyer will often give you tasks to complete before you come back for another appointment. If you want to keep your legal costs down and keep your case moving along, it is important for you to get these tasks done.
- ◆ Your women's legal advocate can help you make a plan that you can follow and may be able to help you with some of this work.

## PROVIDING EMOTIONAL SUPPORT

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WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ Your lawyer's job is to give you legal advice and follow your instructions about how to handle your case. While many lawyers are very sympathetic to their clients' emotional needs, it is not the lawyer's job to provide you with emotional support.
- ◆ Your women's legal advocate can do this and can help you find additional counselling support if you need it.

## SAFETY PLANNING

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WHO'S RESPONSIBLE:

- You   
Legal Advocate   
Lawyer

- ◆ You and your women's legal advocate can work together to create a safety plan. You can let your lawyer know about it, but it is not your lawyer's job to create it.







CHECKLIST	ASSESSING MY FAMILY LAW LAWYER		NOTES
	YES	NO	
My lawyer understands family law and issues related to domestic violence.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer helps me prioritize my goals.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer explains the legal options and strategies available to achieve my goals.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer explains my chances of success.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer does not make promises about outcomes they cannot control, like what the judge will rule or what my partner will agree to.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer answers my questions and makes sure I understand fully.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer lets me ask questions.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer communicates with me in a timely and effective manner.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer has explained how long the process might take.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer has explained how much the process might cost.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer has explained what services they will and will not provide.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer follows my legal instructions and does not make important decisions without consulting me.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer gives me copies of ongoing communications and documents filed with the court.	<input type="checkbox"/>	<input type="checkbox"/>	
My lawyer handles matters related to my case within a time frame they originally promised.	<input type="checkbox"/>	<input type="checkbox"/>	

*Adapted from material originally developed by the Barbra Schlifer Commemorative Clinic*





# FAMILY COURT PROCESS

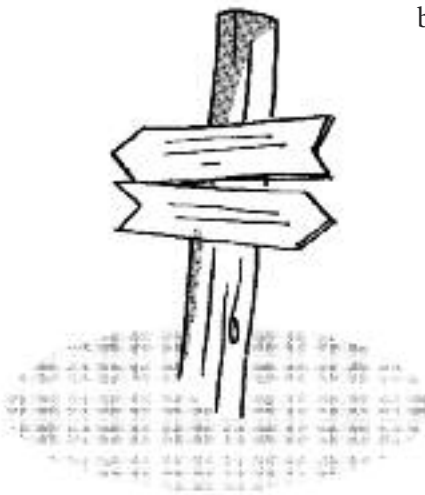
The process in a family law case can seem very complicated, especially if you do not have a lawyer to represent you. The length of time a case will take depends on how the process unfolds and your specific situation. For example, if you and your ex-partner both have lawyers, the case may move along more efficiently. If your ex-partner engages in legal bullying, the case will slow down. It will move more quickly if the two of you are able to agree on at least some of the issues you need to resolve.

Timelines will also depend on where you live, because some courts are much more overcrowded with cases than others and some are open for limited hours.

A family court case unfolds in a series of steps, which may lead to a trial. Very few cases in family court – less than five percent – get to a trial. One of the reasons for this is that at each step of the process, you will have a number of options, one of which is to settle your family law issues with your ex-partner without going any further in the formal process. Working out the issues this way is sometimes called alternative dispute resolution.

It can take a very long time to sort out the issues that come up when two people separate. This is especially true when there has been abuse. If your ex-partner was abusive to you, he is likely to use the court process to maintain his power and control over you. This is called legal bullying.

Expect that it will take some time – months or even more than a year – to sort out complicated and emotional issues like arrangements for the children and financial matters. You will feel less frustrated by your case if you go into it anticipating a long process. If it goes more quickly, it will be a pleasant surprise.



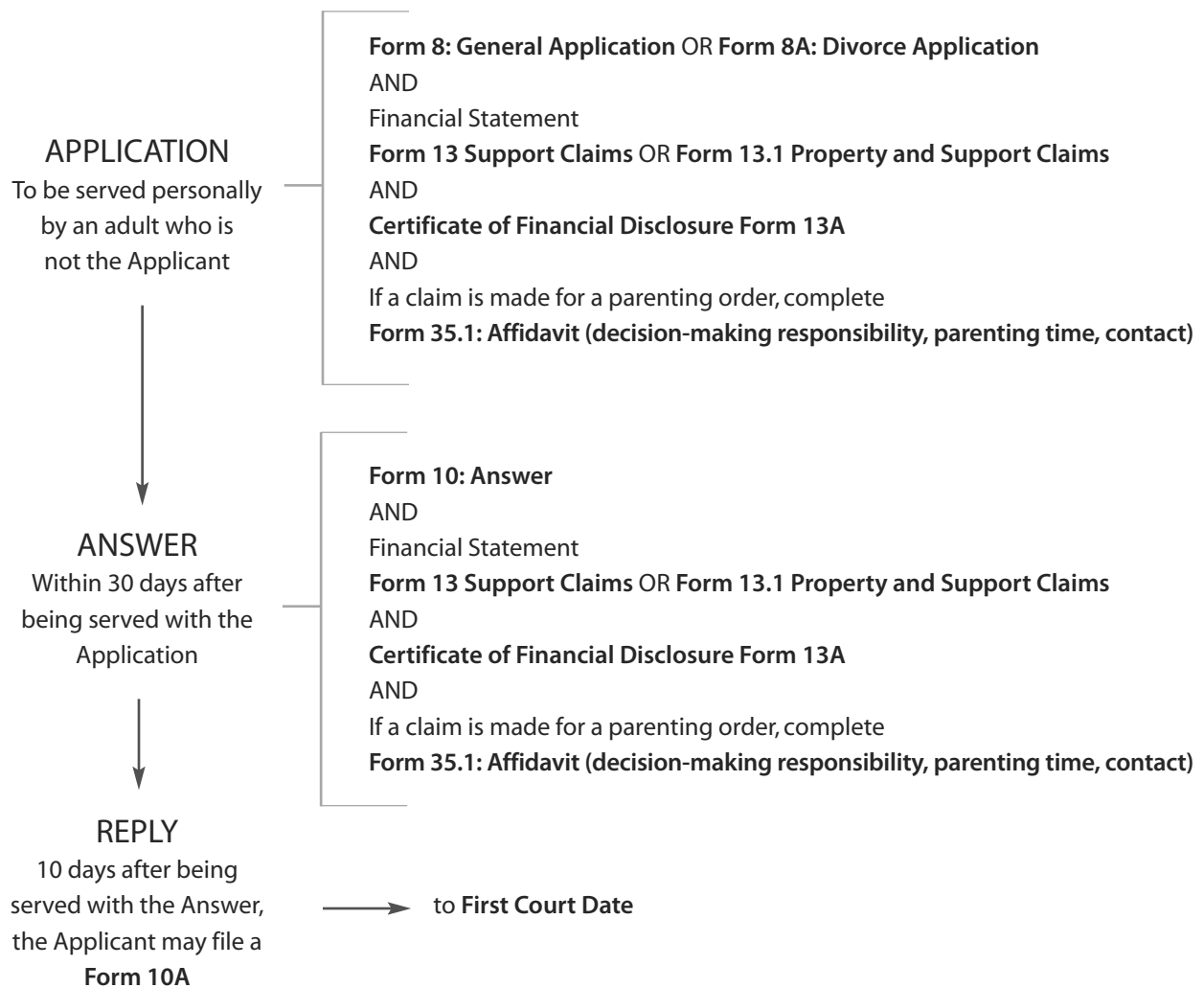


**FLOWCHART**    **STEPS AND DOCUMENTS**

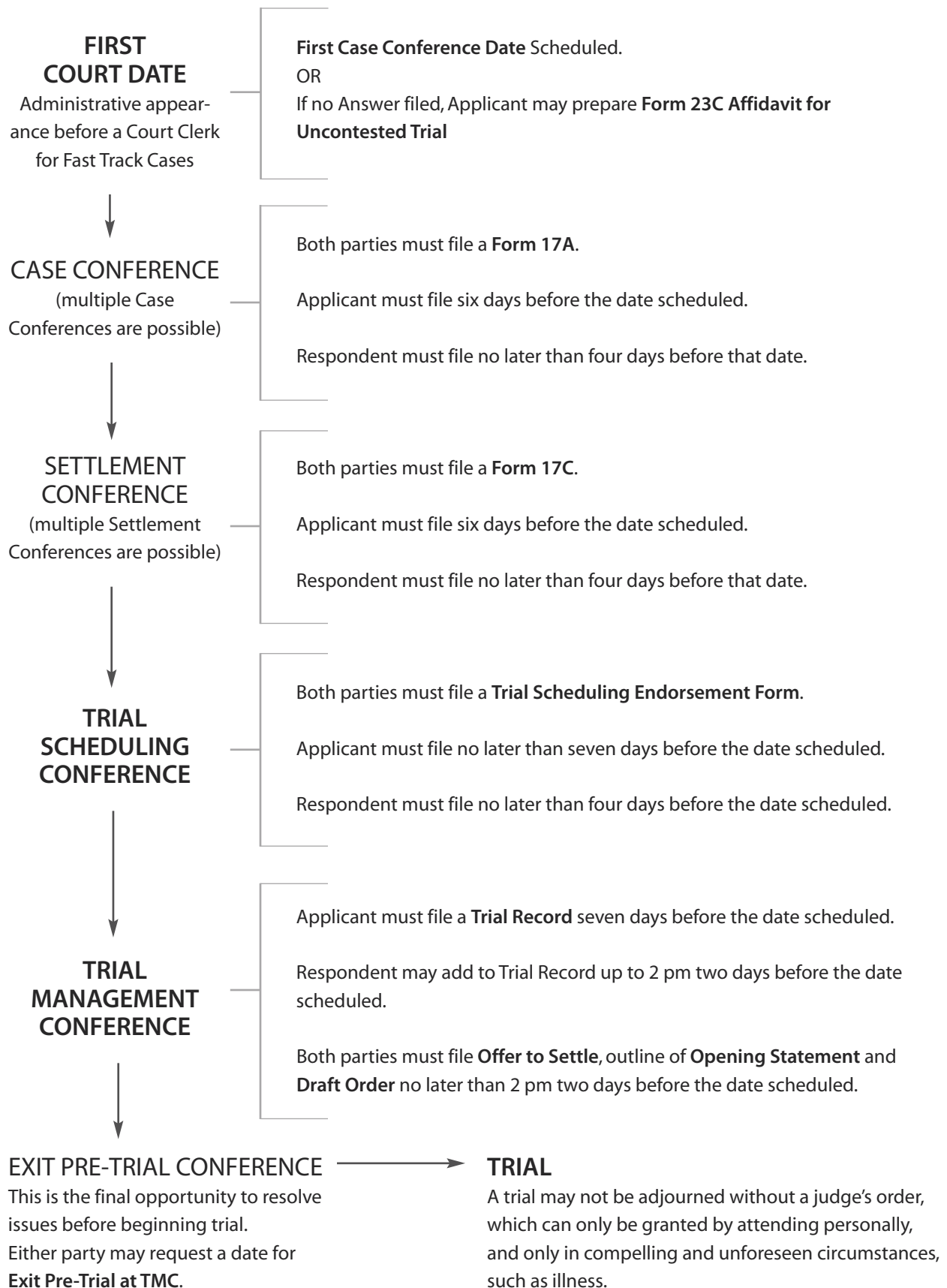
This table sets out the steps in a family law case. Each step requires different documents, which are also noted. Documents must be filed on time unless you have the other party’s consent or the court’s permission to file late. Seek legal advice if you are unable to file your documents on time.

These forms are not in the table but are important:

- ◆ **Form 14 C – Confirmation of Motion** must be delivered to the opposing party and filed at the filing counter three days before a motion date.
- ◆ **Form 17 F – Confirmation of Conference** must be filed three days before a conference date.
- ◆ **6B Affidavit of Service** must be filed each time documents are served. Service of court documents must comply with the *Family Law Rules* (ontario.ca/laws/regulation/990114).
- ◆ See Rule 3 for Counting Days and Rule 6 for Service of Documents.































## ARRANGEMENTS FOR THE CHILDREN

When parents separate, legal arrangements need to be made about when and how the children will spend time with each parent and about who has responsibility for making decisions about them.

Ontario's *Children's Law Reform Act* and the federal *Divorce Act* uses the term **PARENTING ORDER** for the order that sets out the arrangements for the children. The time the children spend with each parent is called **PARENTING TIME**. Parenting orders also set out the arrangements for **DECISION-MAKING RESPONSIBILITIES**.

Under both pieces of legislation, if there are concerns that either parent may not be able to care properly for the children, the time they spend with that parent may be **SUPERVISED** or, if it is not safe for the mother to be with the father when the children are exchanged, there can be an order for **SUPERVISED EXCHANGES**.

Under both the *Divorce Act* and the *Children's Law Reform Act*, all decisions related to the care of children are made using the **BEST INTERESTS OF THE CHILD TEST**. Both laws also include a broad definition of family violence to assist courts in determining what is in the best interests of the children.

Abusive men often use arrangements for the children as a way to try to maintain control over or intimidate their ex-partner. It is very important for a woman with children leaving a relationship in which she has been abused to move quickly to establish arrangements for them to prevent the abuser from claiming she has abducted them or from simply taking the children and refusing to let her see them.

This is especially true for women whose ex-partners may be in a position to remove the children from Canada. While the Hague Convention offers some protection against international abductions of children, it does not apply in many parts of the world and, even where it does apply, getting a child back from another country is a time-consuming, expensive and complicated process.

### CHILD SUPPORT

When parents do not both live together with their children, the law requires both of them to contribute to the financial support of their children. Most commonly, the parent with whom the child lives most of the time will receive child support from the other parent. Step-parents may be required to pay support for a child if they have acted in the role of a parent while living with the child.

Child support is usually paid until the child reaches the age of 18, unless the child gets married or withdraws from parental control before this. It may continue past this age if the child remains a full-time student or is unable to be independent because of illness or disability.

The amount of child support to be paid is calculated by using one of the tables developed by the federal and provincial governments and known as the Child Support Guidelines.

The basic amount to be paid is set by examining the payor's annual before-tax income and the number of children. The amount may be increased if there are additional special expenses, in which case the parents will be expected to share those costs in proportion to their incomes.

There are other situations in which the table amounts will not automatically apply: if the child is over 18 or spends at least 40 percent of their time with each parent or if the couple split the children between them, the court is allowed to vary the amount of support to be paid.

Orders for child support are enforced through a provincial government agency called the **FAMILY RESPONSIBILITY OFFICE (FRO)**. Most often, FRO collects the support from the payor either directly or by way of payroll deduction, then forwards the money to the recipient parent. Due to FRO's high case load, there is often a delay of several months between when an order is registered and when the recipient parent begins to receive the support money.

FRO has a number of options to collect money when the payor is late, misses payments or attempts to evade the order, including: garnishing his bank account, registering a charge against the payor's personal property (i.e., a car or home), suspending his driver's licence and/or cancelling his passport.

## SPOUSAL SUPPORT

The *Family Law Act* defines both married and common-law partners as “spouses” for the purpose of spousal support. A person is a common-law spouse if she has lived with her partner for at least three years or if they are in a steady relationship and have had or adopted a child together.

The goal of spousal support is to encourage the financial independence of both spouses as appropriate in the circumstances of the relationship. For example, where one spouse stayed at home to raise the children or had to change jobs frequently because of demands of the other spouse’s employment, spousal support would be likely.

A number of factors are considered in determining whether spousal support should be paid, how much it should be and for how long it should be paid, including:

- ◆ Present and potential earning capacity of both spouses
- ◆ Length of marriage or cohabitation
- ◆ Ages
- ◆ Roles each spouse played in the marriage
- ◆ Roles of each spouse post-separation
- ◆ Impact of these roles on each spouse’s ability to generate income

Spousal support can be permanent or for a specified period of time. The amount of support often decreases over time, although in some circumstances it will stay at the same level permanently. An application for spousal support must be started within two years of the date of separation.

Unlike child support, spousal support is taxable income for the person receiving it and is a tax deduction for the person paying it.

Child support is considered to be a higher priority than spousal support, so if someone cannot afford to pay both, they may only have to pay spousal support after their duty to pay child support ends.

There are Spousal Support Guidelines that are similar to the Child Support Guidelines. Unlike the Child Support Guidelines, they provide direction but are not law.

Spousal support orders are enforced through the Family Responsibility Office.

## PROPERTY DIVISION

### PROPERTY DIVISION FOR PEOPLE WHO ARE MARRIED

Marriage is considered to be a partnership, with each spouse making equal, if different, contributions and sharing equally in the family's property if the partnership ends. This includes property acquired during the years of the marriage that has been paid for by only one spouse or is registered in the name of only one spouse.

There is some property that is excluded from the equalization requirement, including inheritances and gifts.

Family property that must be divided upon marriage breakdown includes:

- ◆ House, cottage or other real estate (full value, regardless of when it was purchased)
- ◆ Cars and other vehicles
- ◆ Personal items (clothing, books, jewellery)
- ◆ Household items (furniture, appliances)
- ◆ Money (bank accounts, RRSPs, investments)
- ◆ Pensions
- ◆ Debt

Family assets and debts are totalled, and debts subtracted from assets to calculate “net family property,” which is then divided equally. This can be a complicated calculation, depending on the extent of the property and especially if there are differences of opinion between the two spouses about the value of items they own.

A claim for equalization of family property must be started within six years of the date of separation and two years of the date of divorce.

### PROPERTY DIVISION FOR PEOPLE WHO LIVE IN A COMMON-LAW RELATIONSHIP

Common-law relationships do **NOT** provide an automatic right to an equal sharing of the property.

People leave with the property they brought with them, plus whatever they can prove they bought during the relationship. To receive a share of property accumulated over the course of the relationship, the common-law spouse would have to prove to the court that she has made contributions, direct or indirect, to its value.

Direct contributions could include paying a share of the mortgage or for renovations or repairs to the home. Indirect contributions could include paying for utilities, household expenses or family vacations, raising the children or assisting in the family business.



## MARRIAGE AND DIVORCE

People must be at least 18 years of age to marry in Ontario. People as young as 16 years of age can marry if they have the written consent of both sets of parents.

Polygamy – having more than one spouse at the same time – is not legal. It is also not legal for people who are very closely related to marry. A marriage is not legally binding if either person is unable to understand the nature of marriage or its obligations or was forced into it.

Generally, marriages from outside Canada are recognized as legally valid here if they were performed according to the laws of that country.

Despite the fact that polygamy is illegal in Canada, there is some protection for spouses in polygamous marriages under Ontario family law if the polygamous marriage was legal in the country in which it was performed. Women in such situations are able to seek spousal support and/or orders regarding the division of property.

Both men and women can apply for a divorce on the basis of a breakdown of the marriage. This can be established in any of three ways:

- ◆ The spouses have been living separate and apart for at least one year.
- ◆ One spouse has committed adultery.
- ◆ One spouse has treated the other with physical or mental cruelty such that they can no longer live together.

Most cases rely on the first of these conditions. It is possible to meet this condition while still living under the same roof as long as the people are no longer living as a couple.

A foreign divorce will be recognized in Canada as long as either spouse lived in the place that granted the divorce for at least one year preceding the application. Even if this minimum residency period is not met, the divorce may still be recognized if the Applicant can establish a “real and substantial connection” with the place that granted the divorce.

There are many religions that do not recognize civil divorce and do not allow separated and/or divorced spouses to participate in religious practices, including remarriage within the religion. While Canadian family law is not able to override these religious barriers, people can remarry civilly once they have obtained a civil divorce, regardless of the rules of the religion.

## COMMON-LAW RELATIONSHIPS

Many women in common-law relationships believe they have exactly the same legal rights as women who are married. While there are many commonalities, there are some important differences, especially with respect to the way in which property is divided if the relationship ends.

There is no standard length of time of living together that makes a relationship “officially” common-law. For example:

- ◆ To make a claim under the Canada Pension Plan: one year
- ◆ To file as spouses under the *Income Tax Act*: one year
- ◆ To claim spousal support under the *Family Law Act*: three years OR “some permanence” if parents of a child

Living common-law as opposed to being married has no negative impact on issues relating to children if the relationship ends. Issues relating to arrangements for the children will be determined using the best interests of the child test. Whether or not they are married to one another, both parents have financial responsibilities toward the children.

Spousal support is available to common-law partners who meet the definition of spouse that appears in the *Family Law Act*. Section 29 defines spouse as two people who are married and “either of two people who are not married to each other and have cohabited:

- (a) continuously for a period of not less than three years, or
- (b) in a relationship of some permanence, if they are the natural or adoptive parents of a child.”

However, common-law partners **DO NOT** have a legal right to an equal share in the family property, as married spouses do. Generally, when a common-law relationship ends, each person leaves with whatever property they brought into the relationship as well as any they bought during it.

If a woman leaving a common-law relationship wants to make a claim on property that she does not legally own (for instance, if the deed to the family home is in her partner’s name only), she must bring an application in family court using a “constructive trust” argument. This means she has to prove that she contributed directly or indirectly to the value of that property. For example, if she can prove that she paid the taxes, contributed to the mortgage or paid for renovations or repairs, she could establish a direct contribution; if she can establish that she had raised the couple’s children, that might be an indirect contribution.

Common-law partners **MAY** be able to remain in the family home, even if their name is not on the deed or lease.

## RESTRAINING ORDERS

Many abusive men engage in ongoing strategies of harassment and intimidation against their partner even after they separate. Restraining orders are an important tool of the family court to help keep women and their children in these situations safer. A family court judge can issue a restraining order if the Applicant provides sufficient evidence that she is fearful her partner or ex-partner will hurt her or her children.

It is very important for a woman to present strong evidence to support her application for a restraining order. This could include:

- ◆ Information about criminal charges related to violence or stalking, if any have been laid.
- ◆ Detailed information about any threats the ex-partner has made, including copies of emails, letters, telephone messages, social media postings, etc.
- ◆ Details of any post-separation stalking behaviour.
- ◆ Observations by other people of his behaviour.

Restraining orders are issued on a standard form order, which lists the restrictions on the ex-partner's behaviour. Common provisions include:

- ◆ Specific prohibited behaviours, such as telephoning or emailing her or coming to her home or workplace.
- ◆ Minimum distance he must remain away from her.
- ◆ Prohibition of contact with other people such as her children.
- ◆ Prohibition on his presence in a specific township or county.

A woman will have more success in having her restraining order enforced by the police if she:

- ◆ Has multiple copies of the order made and ensures she has one with her at all times.
- ◆ Documents any and all problematic behaviours by the abuser.
- ◆ Never consents to or initiates contact with him under any circumstances.
- ◆ Lets others know what she wants them to do if the abuser attempts contact with her.

If the abuser breaches the restraining order, he can be arrested and charged with a criminal offence.

## DOMESTIC CONTRACTS

Domestic contracts are legal agreements entered into by couples wishing to set their own terms in their relationships with one another and include cohabitation agreements, marriage contracts and separation agreements.

To be legally binding, the contract must be in writing and signed by each person in the presence of a witness.

A **COHABITATION AGREEMENT** is an agreement between two people who either live together or are about to do so. A **MARRIAGE CONTRACT** is very similar to a cohabitation agreement, except that it is for people who are married or planning to marry.

These agreements most often deal with financial and property issues. They cannot deal with arrangements for children – these issues can only be determined if the couple separates. A cohabitation agreement can become a marriage contract if the couple marries after living together.

A **SEPARATION AGREEMENT** is created when a relationship ends and deals with the many issues that commonly arise at that time, including arrangements for the children, child and spousal support and division of property.

Before signing a domestic contract, it is crucial that each person seek independent legal advice to ensure they understand the terms of the agreement and, in particular, how their rights under the agreement may be different than their rights under the law. People also have the right to full and honest information about the other person's financial situation, including income, property and debts.

A domestic contract will not be binding if it can be proven that it was signed under duress or is grossly unfair, but these are both very difficult to establish.

Women leaving relationships in which they have been abused are especially vulnerable to being coerced into signing separation agreements that do not protect their legal rights. Independent legal advice is particularly important in these situations.

## LEGAL BULLYING

Legal bullying can take many forms. The abuser may:

- ◆ Bring repeated motions on issues that have already been decided.
- ◆ Fail to produce documents or information required in the court proceeding.
- ◆ Seek repeated delays for no real reason.
- ◆ Repeatedly change lawyers.
- ◆ Represent himself even when he has no financial need to do so.
- ◆ Make complaints about those involved in the process (lawyers, mediators, assessors, judges, etc.).
- ◆ Make malicious and unfounded reports about the woman.
- ◆ Appeal decisions even when there is no possibility of success.
- ◆ Fail to obey court orders.

His overarching goal is to maintain his control over his partner, to intimidate her, to prevent her from moving on with her life and/or to wear her down to the point that she agrees to return to him. The impacts on her can include:

- ◆ She may have fears for her physical safety or that of her children.
- ◆ If she has a lawyer, she may incur legal costs she cannot afford.
- ◆ If she is unrepresented, she may have to take time away from work for additional court appearances, which could jeopardize her employment.
- ◆ If she is unrepresented, she may have to deal with him directly, which can be both emotionally and physically unsafe.
- ◆ She may concede on issues simply to end the contact with him.
- ◆ She may have to undergo repeated investigations by anyone to whom he has made malicious reports.
- ◆ If she has children, she will have to deal with the impact – direct or indirect – that the bullying has on them.
- ◆ She may return to her ex-partner rather than put up with his legal bullying.

The very nature of family law makes it difficult to deal with legal bullying. Because family law is so open-ended, it is easy for an abuser to find ways to manipulate the system and the process. However, there are some legal strategies for dealing with legal bullies. For example:

- ◆ Judges can make orders, with consequences for non-compliance, to require timely disclosure of information needed to allow a case to proceed.
- ◆ The *Courts of Justice Act*, section 140, allows judges to make an order prohibiting a party from bringing further court proceedings without specific permission from the court if he has been identified as a “vexatious litigant.”
- ◆ The Rules of Civil Procedure have two sections dealing with troublesome parties. Rule 60.11 permits a judge to make a contempt order against a party who defies court procedures or orders. Rule 57 allows a judge to order a bully to pay all the costs of the victim if he brings harassing matters in front of the court.

## CHILD PROTECTION

The *Child and Youth Family Services Act (CYFSA)* is the Ontario law dealing with child protection. Its purpose is to promote the best interests, protection and well-being of children.

The *CYFSA* authorizes child protection authorities to:

- ◆ Investigate allegations or evidence that a child may be in need of protection.
- ◆ Protect, care for and supervise such children.
- ◆ Provide services to families.

A child is in need of protection if:

- ◆ The child has suffered physical, sexual or emotional harm, through actions or neglect.
- ◆ There is the risk of any such harm.

A child being exposed to their mother being abused is one risk factor, among others, in determining whether a child may be in need of protection.

Child protection authorities are required to intervene with a family in as minimally intrusive a manner as possible, bearing in mind the best interests of the children. Removing a child from their parent(s) is a last resort that would only occur if no other strategy was available.

Anyone who has “reasonable grounds to suspect a child may be in need of protection” is required to report this to the appropriate child protection agency.

Where a woman is taking or has taken steps to protect the children from future exposure to woman abuse, reporting to child protection authorities may not be required. This could include a woman who:

- ◆ Has come to a shelter with her children to live.
- ◆ Is taking steps to find housing.
- ◆ Has reported the abuse to the police.
- ◆ Has hired a family law lawyer.

Anyone involved in a child protection court proceeding should have a lawyer. Legal aid is available in child protection cases to those who qualify financially. Duty counsel is available to assist women who do not have a lawyer.

## COMMON FAMILY LAW TERMS

**APPLICATION:** A proceeding in family court begins when one person brings an application, in which she lists what she is seeking – for instance, primary responsibility for the children, child support, and so on.

**ARBITRATION:** Some people decide to use an arbitrator rather than going to court to resolve their issues after separation. Arbitrators, who may or may not have legal training, provide a binding decision just as judges do. They must follow Canadian law in reaching their decisions, which can be appealed.

**BALANCE OF PROBABILITIES:** Different standards of proof are required by different courts in order to establish guilt/liability. In family court, the standard of proof is on a balance of probabilities, which means the judge has to believe that one person's story is more likely than not to be true as compared to the other person's story. This is a much lower standard of proof than that required in criminal court, which is beyond a reasonable doubt.

**BEST INTERESTS OF THE CHILD TEST:** This is the test used to determine appropriate parenting arrangements for children after the parents separate. Judges must consider such criteria as which parent can offer the child the greatest stability, which parent will maintain contact with the child's extended family, which parent has the greater ability to meet the child's needs, the presence of family violence and so on. The wishes of the child will be considered if the child is old enough to communicate them.

**CHILD AND YOUTH FAMILY SERVICES ACT (CYFSA):** This is the legislation in Ontario that governs child protection and the operation of the Children's Aid Society across the province.

**CHILD SUPPORT:** This is the money that is paid by the parent with whom the children spend less time to the other parent to help with the financial support of the children. It is determined by examining the income of the person who will be paying the support.

**CHILDREN'S LAW REFORM ACT:** This is the legislation in Ontario that governs child custody and access. Section 24 sets out the best interests of the child test.

**CONTACT ORDER:** A contact order sets out the time a child is to spend with someone other than their parents; most commonly grandparents.

**DECISION-MAKING RESPONSIBILITY:** The parent with decision-making responsibility makes the significant decisions about the child's life and well-being, including decisions related to health, education, culture, language, religion and spirituality and significant extra-curricular activities. Decision making responsibility can be given to one parent or shared between the two parents.

**DIVISION OF PROPERTY:** When married people separate, they must divide up all of their belongings. The law requires that any property they accumulated while they were married be shared equally between them, regardless of who paid for it. If the two people cannot agree on this, they can go to court to get an equalization of net family property. Property includes physical things like houses, cottages, trailers, cars, boats and furniture but also includes pensions, RRSPs and other financial investments. It also includes debts, for which both people are responsible.

Common-law relationships do NOT provide an automatic right to an equal sharing of the property. People leave with the property they brought with them, plus whatever they can prove they bought during the relationship. To receive a share of property accumulated over the course of the relationship, the common-law spouse would have to prove to the court that she has made contributions, direct or indirect, to its value.

**DIVORCE ACT:** This is the federal law that applies to people seeking a divorce. It also sets out how parenting arrangements, support and property division are to be handled. It is a law that applies to people everywhere in Canada. Section 16 sets out the best interests of the child test.

**DUTY COUNSEL:** Family court duty counsel lawyers provide immediate legal assistance to low-income people who do not have a lawyer. They can give advice about legal rights, obligations and the court process as well as help negotiate and settle issues and review or prepare court documents to be filed. For those who qualify, they may be able to provide same-day representation in the courtroom. They cannot assist with property claims or trial preparation or represent someone at trial.

**FAMILY LAW ACT:** This is an Ontario law that governs division of family property, support and restraining orders.



**FAMILY LAW INFORMATION CENTRE (FLIC):** These offices in family courts are a centre for information about family law. An advice lawyer and other staff provide basic family law information as well as information about how to start a family court proceeding. These services are free.

**MATRIMONIAL HOME:** This is the home where the family lived, whether it was owned or rented by them. It can be a house, an apartment, a trailer, a boat – anywhere they lived as a couple. It is possible to apply to the family court for an order for exclusive possession of the matrimonial home. Whichever person is successful in this can then change the locks on the home, and the other person is not allowed on the property. This does not affect the ownership of the home – just who can live there.

**MEDIATION:** This is a process in which the separating couple can meet with a third party to try to come to a compromise on issues of disagreement. The mediator cannot force the people to agree to something but can make suggestions and help them work toward a common position.

**MOTION:** Motions are court proceedings brought on interim matters, while the case is moving toward a final trial. They are commonly used in family court to establish interim custody, access and child support arrangements and to obtain restraining orders.

**OFFICE OF THE CHILDREN'S LAWYER (OCL):** The OCL can become involved with a parenting arrangements case if ordered to do so by the family court. Part of the Ministry of the Attorney General, the OCL determines if their involvement is necessary based on the information provided in the intake forms from each party. The age and needs of the child will affect whether the OCL appoints a clinician or a lawyer (or both) to a file. The OCL does not determine the outcomes in parenting cases, but makes recommendations based on their work with the parties, child and others who have regular contact with the family. When making court orders, the judge will consider the position presented by the OCL lawyer or the report filed by the clinician along with other evidence that has been submitted by the parties.

**PARENTING ORDER:** A parenting order sets out parenting time and decision making responsibility between the parents.

**PARENTING PLAN:** This is the plan made by each parent describing how they intend to parent post-separation. It could include information about proposed access arrangements and proposed communications systems with the other parent as well as more direct parenting ideas.

**PARENTING TIME:** This describes the time the child spends in the care of each parent, including time that they are not physically with that person (ie., when attending school).

**PRIMARY RESIDENCE:** The home (parent) where the child spends most of their time.

**RESTRAINING ORDER:** This is an order from the family court that keeps one person away from another.

**SETTLEMENT CONFERENCE:** Most family law cases involve a settlement conference, when the people, their lawyers and the judge meet outside the courtroom to try to resolve the case or at least some of the issues.

**SPOUSAL SUPPORT:** This is support paid by the spouse with the higher income to the other spouse in order to address any financial differences that are the result of the marriage (for example, the woman who stays home for 20 years to raise the children is likely to receive spousal support from her husband if he continued working through those years).

**SUPERVISED PARENTING TIME:** This is the arrangement made for parenting time when it is not appropriate for a parent to be alone with the child. This can be informal (for example, with a family member) or formal (at a supervised access centre).

**SUPERVISED EXCHANGES:** This is the arrangement made when it is not safe for the parents to be together to exchange the children. It can be informal (for example, exchanging the children in a public place, through relatives or at a school or daycare) or formal (at a supervised access centre).

# COURT-RELATED SERVICES AND AGENCIES

You will likely become involved with at least one court-related service during your family law case. Even if you are trying to work things out with your ex-partner without starting a court case, you may find it helpful to turn to some of the services associated with family court for information or support.

Take the time to learn a bit about the service before you decide whether or not it is for you.

TIP  
SHEET

## WORKING WITH COURT-RELATED SERVICES AND AGENCIES

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### TIP #1: KNOW WHO YOU ARE DEALING WITH

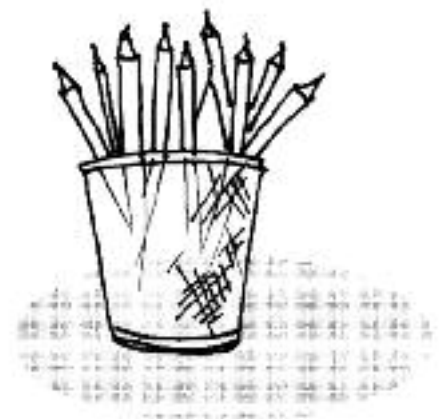
Ask some questions before you commit to using any service to which you are referred:

- ◆ What does this service do?
- ◆ Do you think you need it (e.g., what can it do for you and your family)?
- ◆ Does the service have the power to interfere in your life more than you want it to?
- ◆ Can you be required to provide information you might not want to?
- ◆ Does the service have an obligation to report what you tell it to anyone else (e.g., the police, the court, CAS)?
- ◆ Is there a formal complaints process you can use if you are not happy with the service you receive?

### TIP #2: BE PREPARED

The better prepared you are, the better your interactions with court-related services will go. Once you have found out everything you can about the service you are working with, you should:

- ◆ Make sure your court file (your copies of everything in your official court file) is up to date, complete and well organized. You want to be able to find any documents you need quickly, without having to shuffle through bags or boxes of miscellaneous materials.







### FAMILY RESPONSIBILITY OFFICE (FRO)

#### WHAT IS THE FAMILY RESPONSIBILITY OFFICE?

The Family Responsibility Office (FRO) is part of Ontario's Ministry of Community and Social Services. It is responsible for collecting and distributing child and spousal support orders. Where the person paying the support is not doing so, FRO can take steps to enforce payment.

#### HOW DOES FRO BECOME INVOLVED?

Your support order – child, spousal or both – will be filed with FRO automatically. FRO will then contact both you and your ex-partner with a registration package, which you must complete and return.

If you and your ex-partner have signed a separation or arbitration agreement to deal with support issues, you must file the agreement with the family court and then send a copy to FRO, along with the Affidavit for Filing. Then FRO will send you a registration package so it can enforce the terms of the agreement.

If you do not want FRO to collect and distribute your support payments, you can withdraw your case and manage the situation on your own.

#### HOW DOES FRO COLLECT SUPPORT PAYMENTS?

If your ex-partner is employed, FRO will arrange with his employer to have his child and/or spousal support deducted from his paycheque and sent to FRO, which will then deposit it in your bank account. This can take a bit of time at the beginning, but once it is set up, your support should arrive in your bank account on a regular basis.

If your ex-partner is not employed, FRO will make an arrangement with him so he pays FRO directly (usually through his bank account or by cheque or money order). FRO then deposits the support payment in your bank account.

### WHAT HAPPENS IF MY EX-PARTNER DOES NOT PAY HIS SUPPORT?

The Family Responsibility Office (FRO) has a number of enforcement tools it can use if your ex-partner does not pay the support he is required to pay. FRO can:

- ◆ Garnish his bank account.
- ◆ Garnish money he might receive from the government (e.g., tax refunds, EI benefits, CPP or OAS benefits).
- ◆ Report him to the credit bureau.
- ◆ Suspend his driver's licence.
- ◆ Suspend his passport.
- ◆ Suspend any federal licences he might have.
- ◆ Place a lien on his property.
- ◆ Seize lottery winnings.

FRO can also take him to court for a Default Hearing, which could result in him receiving up to 180 days of jail time.

If your ex-partner has not made a support payment for at least six months and FRO has been unable to find him, it may post personal information about him on the website [www.ontario.ca/page/missing-child-and-spousal-support-payors](http://www.ontario.ca/page/missing-child-and-spousal-support-payors) to ask for the public's help in finding him.

The website will contain information about your ex-partner such as his name, photograph, physical description, last known address, usual occupation, and so on. FRO will get your consent before doing this.

### CHANGING A SUPPORT ORDER

If you or your ex-partner wants to change your support order, one of you must go to family court and bring a Motion to Vary. Until the court has made a new order, FRO will continue to enforce the existing order.

### LEGAL AID ONTARIO (LAO)

#### WHAT IS LEGAL AID ONTARIO?

Legal Aid Ontario (LAO) provides a wide range of legal assistance for low-income people. LAO has special family law services for people subjected to domestic violence, regardless of immigration status. Eligibility criteria for some of LAO's services are different for people who have experienced domestic violence. For up-to-date information on income eligibility, visit [legalaid.on.ca](http://legalaid.on.ca).

#### CERTIFICATE PROGRAM

You may be able to get a legal aid certificate, which will allow you to hire a lawyer to represent you in your family law case. Your legal issue must be one that is covered by LAO, and you must qualify financially. If you are eligible, you will be given a certificate that you can use with any lawyer who will accept it. It will be for a specific number of hours. Over the course of your case, your lawyer can contact LAO to request additional hours if needed.

Even if your income is too high for you to qualify, or you own property, you may be able to get a legal aid certificate. LAO can place a lien on your property, which means when you sell that property LAO will take some of the money to cover the cost of your certificate. Or LAO may offer you a contribution agreement, which means that LAO pays for your lawyer and you pay LAO back at an agreed-upon monthly rate.

#### FAMILY VIOLENCE AUTHORIZATION FORMS

You may be able to receive an LAO authorization form for up to two hours of free legal advice in the areas of family and immigration/refugee law. You can use this form with lawyers on an approved list. You may use up to two hours per legal issue in one calendar year.

The lawyer cannot start a proceeding for you, but they can provide you with legal advice and give you information about applying for a legal aid certificate.

Most shelters and some other community agencies are authorized to provide these forms.



### FAMILY LAW SERVICE CENTRE

These centres, funded by LAO and available in some communities, provide services to financially eligible clients who are going to family court.

The centres provide assistance with document completion as well as referrals to staff advice lawyers. Some centres provide full representation by a staff lawyer. Where appropriate, clients can be referred to a private lawyer who does legal aid work.

### FAMILY LAW INFORMATION CENTRE

Clients who are new to the court system or do not have a lawyer can receive free assistance and information at FLIC. The advice lawyer can answer legal questions, provide summary legal advice and review legal documents.

### DUTY COUNSEL

Family court duty counsel lawyers provide immediate legal assistance to low-income people who are at court without a lawyer. They can give advice about legal rights, obligations and the court process and can help negotiate and settle issues as well as review or prepare court documents to be filed.

They may be able to assist in the courtroom with child protection and garnishment and support hearings as well as to request an adjournment or argue a motion. Where the issues are not complicated, they may be able to assist with some kinds of hearings.

### SUMMARY LEGAL ADVICE

Financially eligible clients can receive summary legal advice about their family law matter at LAO's toll-free telephone number: 1-800-668-8256. This service is available Monday to Friday, 9 am to 5 pm.

To make the best use of the 20 minutes the lawyer can spend with you, you should prepare a summary of your situation, make a list of questions and gather any relevant court documents.

If you identify as a survivor of abuse, your call will be fast-tracked.

# MEDIATION

### WHAT IS MEDIATION?

Mediation is a way that you and your ex-partner can try to work out your dispute without going to court. You work with a mediator to talk to one another and come to an agreement about issues such as parenting arrangements, child or spousal support, division of property and the matrimonial home.

Mediation is voluntary; you cannot be forced to mediate if you don't want to.

Court-based mediation in Ontario is closed. This means that what happens during your mediation sessions is private and cannot be shared with the court or anyone else. The only exception to this is if concerns about the well-being of a child arise, in which case the mediator has a duty to report those concerns to child protection authorities.

### HOW MEDIATION WORKS

The mediator must be fair and not favour either person in the dispute. They can suggest ways to solve the conflict, but you do not have to take their advice.

They cannot offer legal advice so you should talk to a lawyer before you take part in mediation. A lawyer can tell you your rights and responsibilities.

If you are not happy with the mediation, you can end it. If you and your ex-partner cannot come to an agreement, the mediation will end and you will have to try a different way to resolve your issues.

If you come to an agreement at mediation, do not sign the agreement until you get a lawyer to read it.

### FEES FOR MEDIATION

Mediation that takes place at the courthouse is free. There is a sliding scale user fee for off-site mediation. The fee is determined based on your income and number of dependents.

## COURT-RELATED SERVICES AND AGENCIES FACT SHEETS: MEDIATION CONTINUED

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### MEDIATION AND ABUSE

Mediation may not be appropriate if your ex-partner has been or is abusive to you. This is because he may try to manipulate or intimidate you into agreeing to the result he wants rather than being open to sincere negotiations with you to come up with an outcome that can work for both of you.

If you cannot be open and honest with your ex-partner or if you feel that he does not listen to or respect you, mediation may not be a good idea.

If you are interested in trying mediation, please refer to the section on how to protect yourself in mediation. You may also want to discuss mediation with your Family Court Support Worker before attempting it, but remember that you can end it at any time if it is not working for you.

For more information about mediation visit the Attorney General's website:  
[attorneygeneral.jus.gov.on.ca](http://attorneygeneral.jus.gov.on.ca)

## OFFICE OF THE CHILDREN'S LAWYER (OCL)

### WHAT IS THE OFFICE OF THE CHILDREN'S LAWYER?

The Office of the Children's Lawyer (OCL) is part of Ontario's Ministry of the Attorney General. It can become involved in a dispute about arrangements for the children by providing a lawyer who will represent the child, a clinician who will write a report for the court, or both.

The OCL can also become involved in child protection matters, but this Fact Sheet is focused on its role in parenting arrangement matters.

### HOW DOES THE OCL BECOME INVOLVED WITH A FAMILY?

If you and your partner cannot agree on an arrangement for the children, you or the judge may decide that the involvement of the OCL might be helpful.

If the judge makes an order requesting that the OCL become involved, you have to complete an OCL intake form, which you can get from the court clerk or, if you have one, your lawyer. You must complete this form within 14 days of the order being made.

In a parenting dispute, the OCL does not have to become involved just because the judge has made an order requesting this. (In a child protection case, it is different. If a judge makes an order, then the OCL must become involved.)

In a parenting dispute, the OCL reviews all the information provided by you, your ex-partner and the court and considers a number of factors in making its decision about whether or not to become involved. One important factor is the presence of conflict within the family, so it is important for you to provide detailed information about any abuse you and/or your children have been subjected to.

It can take several weeks for the OCL to make a decision, at which point you will get a letter telling you what it has decided.

### IF THE OCL APPOINTS A LAWYER

If the OCL decides to appoint a lawyer to represent your child, they will:

- ◆ Meet with you and your ex-partner.
- ◆ Meet with your child as often as the lawyer thinks is necessary.
- ◆ Determine your child's wishes where possible.
- ◆ Contact people who might have relevant information. This could include your child's teacher, doctor, coach, religious leader, etc.
- ◆ Take a position that includes your child's wishes and convey this to the court.

### IF THE OCL APPOINTS A CLINICIAN

If the OCL decides to appoint a clinician, they will:

- ◆ Meet with you and your ex-partner.
- ◆ Meet with your child as often as they think necessary.
- ◆ Observe your child with you and your ex-partner, separately.
- ◆ Contact people who might have relevant information such as your child's teacher, daycare worker, doctor, coach, religious leader, etc.
- ◆ Meet with you and your ex-partner to provide feedback and, if appropriate, suggest ways to resolve the issues.
- ◆ Write a report for the court with details of the investigation and recommendations about the issues.
- ◆ Share the report with you and your ex-partner.
- ◆ File the report with the court.

### WHO MAKES THE DECISION ABOUT ARRANGEMENTS FOR THE CHILDREN?

The OCL does not decide on the appropriate arrangements for your children. It is the judge who makes this decision, and they will take into account the position presented by the lawyer or the report filed by the clinician along with other evidence that has been submitted by you and your ex-partner.

You can find out more about the Office of the Children's Lawyer on the Attorney General's website: [attorneygeneral.jus.gov.on.ca](http://attorneygeneral.jus.gov.on.ca)

### PARENTING COORDINATION

#### WHAT IS PARENTING COORDINATION?

Parenting coordination is a form of alternative dispute resolution that can help parents implement their parenting plan, usually after a court order is in place. Parenting coordinators (PCs) are often mental health professionals, but lawyers and mediators can also function as PCs.

Most have some knowledge of divorce/separation, child development and relevant legislation and have some experience dealing with high conflict families.

#### WHAT IS A PARENTING COORDINATOR'S ROLE?

A PC may be able to help you and your ex-partner implement and follow your parenting plan. If you have a dispute with your ex-partner, the PC can assist you to come to a compromise. A PC could also assist you to improve your problem solving, communication and conflict resolution skills.

If you and your ex-partner are not able to resolve your differences even with the assistance of the PC, the PC has some authority to make a final decision/impose a resolution that reflects the children's best interests. This can only happen with respect to issues that fall within the parenting plan; the PC cannot impose a decision about who has primary responsibility for the children, the relocation of the children or major parenting time schedules.

Your PC will be allowed to have access to any documentation or professionals that they think relevant. They will meet with you, your ex-partner and/or your children as needed.

#### WHEN MIGHT A PARENTING COORDINATOR BE APPROPRIATE?

A PC may be useful if you and your ex-partner are experiencing difficulties with ongoing communication and decision-making about your children. A PC may also be helpful if there are drug or alcohol concerns about your ex-partner.

You must have a parenting plan in place before you can work with a PC because their primary role is to help you implement that plan.

## COURT-RELATED SERVICES AND AGENCIES FACT SHEETS: PARENTING COORDINATION CONTINUED

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### HOW DO I FIND A PARENTING COORDINATOR?

If you have a lawyer, they may be able to recommend a PC who is appropriate for your family. If you do not have a lawyer, family court duty counsel, the Family Law Information Centre (FLIC) staff or the court mediator may be able to give you a list of PCs in your community.

The PC will review relevant information provided by you and/or your lawyer (court orders, the parenting plan, etc.). If the PC decides to take your case, you and your ex-partner will sign a Parenting Coordination Agreement. You should review this agreement with your lawyer before you sign it.

A PC can become involved only if both you and your ex-partner consent. You cannot be forced to use a PC. If at some point, you are both unhappy with the PC, you can end your agreement with the PC. However, if only one of you is unhappy, you must continue working with the PC until the end of the term set out in the Agreement (usually between 12 and 24 months).

### PAYING FOR A PARENTING COORDINATOR

PCs charge an hourly fee, which will be discussed with you and set out in the Agreement you sign. Both you and your ex-partner are responsible for paying this fee. Most PCs require a retainer, usually enough money to cover 20 hours of services. Some PCs have sliding-scale fees to take into account their clients' financial situations, so this is something you should ask your PC about before you commit to a fee.

## SUPERVISED ACCESS PROGRAM

### WHAT IS THE SUPERVISED ACCESS PROGRAM?

The supervised access program makes it possible for separated families to deal with some of the problems related to arrangements for children, particularly when there are safety concerns for either the primary parent or the children.

The Ministry of the Attorney General has supervised access centres across Ontario that provide fully supervised on-site visits in a group or private setting and supervised exchanges of children.

### WHEN IS SUPERVISED ACCESS APPROPRIATE?

You might want to consider using the supervised access program in your community if:

- ◆ You do not think your children will be safe with their other parent.
- ◆ You are worried that your ex-partner might not return them.
- ◆ You have concerns about your own safety during the exchanges of your children.
- ◆ There has been a long period of time since your children have seen their other parent.
- ◆ The other parent has a drug or alcohol problem that could endanger the children.

### WHEN ARE SUPERVISED EXCHANGES APPROPRIATE?

Supervised exchanges allow you and your ex-partner to exchange the children in a safe, neutral place with other people present. As well, the exchange supervisor can determine whether or not your ex-partner is under the influence of drugs or alcohol.

### HOW DO I APPLY FOR SUPERVISED ACCESS OR EXCHANGES?

You can refer your own family to the supervised access program. Your lawyer, a mediator, a community agency or the court can also make a referral.

If you do not have a court order, you and your ex-partner must have a signed written agreement about using the program.

Before your family is accepted into the program, you and your ex-partner must each complete an intake interview and agree to follow the policies and procedures of the program.



## COURT-RELATED SERVICES AND AGENCIES FACT SHEETS: SUPERVISED ACCESS PROGRAM CONTINUED

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### HOW DO SUPERVISED ACCESS OR EXCHANGES WORK?

Once you are accepted into the program, the centre staff will determine the dates and times of visits or exchanges. They will take your needs as well as the parenting order into account.

The trained supervisors can prepare reports for you to use in your court case.

### FEES FOR THE PROGRAM

There are fees for using this service, which are usually shared between the parents, unless your court order sets out a different arrangement. There is a fee for visit and/or exchange supervision and an additional fee if you request a report.

The fee is set on a sliding scale and can be waived if someone is unable to pay.

For more information visit the Attorney General's website:  
[attorneygeneral.jus.gov.on.ca](http://attorneygeneral.jus.gov.on.ca)

## MY CONTACT LIST

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LEGAL ADVOCATE

PHONE:

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EMAIL:

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ADDRESS:

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SUPPORT PERSON

PHONE:

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EMAIL:

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ADDRESS:

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LAWYER

PHONE:

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EMAIL:

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ADDRESS:

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EX-PARTNER'S LAWYER

PHONE:

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EMAIL:

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ADDRESS:

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FAMILY COURT

PHONE:

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EMAIL:

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ADDRESS:

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DUTY COUNSEL

PHONE:

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EMAIL:

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ADDRESS:

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## MY CONTACT LIST

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MEDIATOR

PHONE:

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EMAIL:

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ADDRESS:

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PARENTING COORDINATOR

PHONE:

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EMAIL:

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ADDRESS:

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VICTIM/WITNESS  
ASSISTANCE PROGRAM

PHONE:

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EMAIL:

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ADDRESS:

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CROWN ATTORNEY

PHONE:

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## COURT APPEARANCE SUMMARIES

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## COURT APPEARANCE SUMMARIES

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## COURT APPEARANCE SUMMARIES

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## APPOINTMENT LOG

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# MANAGING FAMILY LAW ISSUES IN RURAL AND REMOTE COMMUNITIES

While the formal family law is the same everywhere in Ontario, there are significant practical differences for women who live in rural and remote communities.

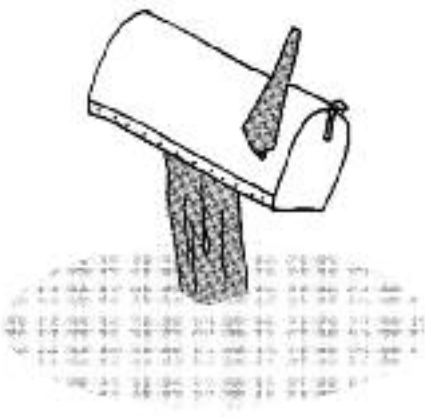
## SAFETY

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It is hard to keep anything private in small communities, as people tend to know one another's business. This can make it difficult to reach out for help, if you don't want your partner knowing what you are doing or if you want to keep your family situation private.

Consider the following safety tips:

- ◆ If you live outside a city or town, find somewhere on your property where you can hide, even for a short period of time (barn or other outbuilding; a spot in a treed area that you can find easily but where your partner won't think to look for you; somewhere on a neighbour's property). Try to find somewhere you have cell phone reception so you can call for help if you need to.
- ◆ If you live in a small city or town, find a safe place you can get to quickly (a church in your community that is open 24 hours a day, a hospital, a neighbour you can trust to keep your privacy).
- ◆ Make an extra copy of the keys to any vehicles and hide them where you can grab them quickly.
- ◆ If you have nearby neighbours you trust, ask if you can have a spare key to their vehicles.
- ◆ If you have neighbours you trust who can see your house, set up a signal system so they know if you need help. For example, pulling a blind or closing or opening a curtain could signal that you need assistance.
- ◆ Make a plan with this neighbour about what this help would look like. Do you want the neighbour to drop by, claiming to have some other reason for doing so? Should they call and ask to speak to you?
- ◆ Make sure you know the official address to your rural property. Post this somewhere that is easy to see (for example on your refrigerator) in case someone other than you is making a 911 call.
- ◆ Find out how long the police response time would be if you had to call 911 for assistance.













# INDIGENOUS WOMEN AND FAMILY COURT

If you are an Indigenous woman leaving a relationship in which you have been abused you will likely deal with all the issues faced by any woman leaving an abuser: ensuring safety for yourself and your children, finding housing, making safe arrangements for your children, sorting out financial and property issues with your ex-partner, and so on. However, you may face some additional issues because of the ongoing impacts of colonialism, the residential schools program and racism.

Even though you may want your partner to stop his abusive behaviour, you may want to preserve your family rather than leave him. In that case, you may choose to work with elders and others in your community who know you and your family to try to find a way for all of you to heal and move on from the abuse.

## COURT PROCESS

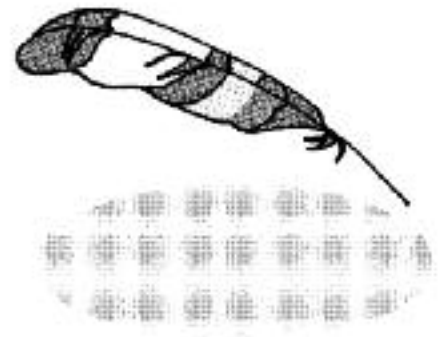
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If you decide to leave your partner, you may turn to family law/court to resolve child-related issues, support and the division of property.

You may value alternative approaches to dispute resolution. If you want to use mediation or other alternative dispute resolution strategies, it is important for you to prepare for this experience. This may include working with a women's legal advocate to make a safety plan that fits with your approach to dispute resolution.

If you become involved in a court proceeding that involves testifying in court, you will be required to swear or affirm to tell the truth. You can use an eagle feather in place of a religious book to make this commitment to be truthful. Many courts now have eagle feathers available, and if they don't, you should be able to obtain one from an Indian Friendship Centre. You would hold the eagle feather and make a statement like this one before you begin to testify:

*“This eagle feather symbolizes our direct connection to the Creator for my people and I hold it in the spirit of the truth.”*











# CHILD PROTECTION AND FAMILY VIOLENCE

Sometimes, child protection authorities become involved with families where there is violence. Depending on where you live, the agency may be called the Children’s Aid Society (CAS), Child and Family Services or perhaps something else. There are some specialized agencies that work with Indigenous families. Toronto has several child protection agencies, including Jewish Family & Child Services and the Catholic Children’s Aid Society of Toronto. If a child protection authority is involved with your family, the more you understand about how it works, the better. As you will see below, this agency has a lot of power.

## OVERVIEW OF CHILDREN’S AID SOCIETY RESPONSIBILITIES

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In Ontario, the *Child and Youth Family Services Act* gives child protection agencies their power and authority. Agencies are responsible for receiving and investigating reports of possible child abuse and neglect, providing services to families that need assistance in the protection and care of their children, arranging for children to live with kin or with foster families when they are not safe at home and arranging for family reunification when that is appropriate.

### LEGAL DUTY TO REPORT

The legislation requires anyone who has reasonable grounds to suspect that a child is or may be “in need of protection” to report those concerns to a child welfare agency.

A child in need of protection is defined as a child who is or who appears to be suffering from neglect and/or physical, sexual and/or emotional harm.

This can include children who have been exposed to violence directed at their mother by her partner. Exposure includes:

- ◆ Direct witnessing of abuse (physical, sexual, emotional).
- ◆ Overhearing the abuse.
- ◆ Seeing the aftermath of the abuse (physical injuries, emotional impact on the mother).
- ◆ Living in a threatening environment for a long period of time.
- ◆ Being subjected to abuse themselves that is part of the abuser’s pattern of coercive and controlling behaviour directed at the mother.



















# CRIMINAL LAW AND FAMILY VIOLENCE

In addition to your family law case, you may be involved with criminal court as a result of the violence you have been subjected to in your relationship. This may be because your ex-partner was charged, you were charged, or you were both charged.

## WHEN THE POLICE BECOME INVOLVED

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At some point in your relationship, the police may have been called to your home. You may have called them for help. It may have been one of your children, another family member or a neighbour or friend who made the call, because of safety concerns.

What you (or whoever else made the call) may not have known is that, once the police are called, it is the police and not you who make the decisions about what is going to happen. This is because police in Canada follow a mandatory charging policy that requires them to lay charges in “domestic violence” cases where they believe there is evidence a crime has been committed, regardless of the wishes of the victim.

While this policy was rooted in good intentions and can be helpful to some women, it has also proven to be challenging to others.

You may have called the police simply to get some immediate assistance in an unsafe situation and have had no intention of seeing your partner charged criminally.

## BENEFITS OF POLICE INVOLVEMENT

There are many benefits of having police involved when you are in an abusive relationship or trying to leave one. Here are a few things to consider:

- ◆ Calling 911 can get you immediate assistance to keep yourself and/or your children safe in an emergency.
- ◆ The police can hold your abuser accountable through criminal charges and conditions to keep you and/or your children safe.
- ◆ Police involvement and charges can be used as evidence of the abuse you have been subjected to in family court.
- ◆ Some women feel that when police lay the charges instead of them, it takes the pressure off them.















## COMPARING THE TWO COURTS

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It can be confusing to understand the differences between the criminal and family court systems and who does what in each court process. To add to the confusion, the two courts do not communicate or share information with one another.

To help with this, we have created a chart for you. It outlines the differences between criminal and family court and compares the roles and services in each one.

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### JUDGE

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#### FAMILY COURT

A judge is a lawyer with at least 10 years' experience and is the person with the most authority in the court. Judges are referred to as "Your Honour," and people in the courtroom are expected to stand when the judge enters and leaves the courtroom. Judges in family court may be either federally or provincially appointed.

#### **Unified Family Court (UFC)**

If your community has a UFC, also known as the Superior Court of Justice (SCJ), your judges are federally appointed and will wear a burgundy sash over their black robes.

When there is a UFC, it deals with all family law issues – parenting arrangements, child and spousal support, property division, restraining orders and divorce – as well as child protection matters.

#### **No Unified Family Court**

If you do not have a Unified Family Court, you will have both a Superior Court of Justice (SCJ) and an Ontario Court of Justice (OCJ). Judges in the Ontario Court of Justice are provincially appointed and will wear a scarlet sash over their black robes while Superior Court of Justice (SCJ) judges wear a burgundy sash and are federally appointed.

Matters related to divorce and division of property are heard by judges in the SCJ, and matters relating to child protection are heard by judges in the OCJ. All other family law matters can be heard by judges in either court.

#### CRIMINAL COURT

The Ontario Court of Justice (OCJ) handles about 95 percent of all criminal matters, which are heard by provincially appointed judges, who wear scarlet sashes. Bail hearings take place in the OCJ. Provincial offences are also dealt with in the OCJ, as are summary conviction offences.

Judges in the Superior Court of Justice are federally appointed and wear burgundy sashes. They handle indictable offences, appeals from summary conviction offences and bail reviews.

Whether judges are federally or provincially appointed, they must be lawyers with at least 10 years' experience. They are the people with the most authority in the court. They are referred to as "Your Honour," and people in the courtroom are expected to stand when the judge enters and leaves the courtroom.

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DUTY COUNSEL

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**FAMILY COURT**

In family court, duty counsel lawyers provide assistance to people who qualify financially in family court cases. They can help with parenting arrangements, support and child protection issues. The duty counsel lawyer can give you advice about your legal rights and responsibilities and the court process, help you and your ex-partner negotiate and settle issues and review or prepare court documents. Duty counsel can also help you ask for an adjournment and assist you with a motion or other hearings where the issues are not complicated.

Usually, there is only one duty counsel lawyer at the court. If you need the assistance of duty counsel, it is a good idea to get to court early, because duty counsel sees people on a first-come, first-served basis. If your ex-partner also needs to see duty counsel, the court may be able to find a second lawyer to see whomever is last in line, because there would be a conflict of interest if one lawyer spoke to both of you.

**CRIMINAL COURT**

Criminal court duty counsel lawyers provide assistance to accused people who qualify financially. Duty counsel can advise you about the charge(s) you are facing and give you basic information about criminal court procedure. They can assist you with your bail hearing and sentencing as well as with adjournments, guilty pleas and diversion.

If you need the assistance of duty counsel, get to court early on the day of your appearance, because people are seen on a first-come, first-served basis, and there is usually a high demand for duty counsel services.

**NOTE: In criminal court, duty counsel services are available for accused people only. If you are the victim, you need to seek assistance from the Victim/Witness Assistance Program (see below).**

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FAMILY LAW INFORMATION CENTRE

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**FAMILY COURT**

The Family Law Information Centre (FLIC) provides information about separation, divorce and related family law issues, including alternative dispute resolution (e.g., mediation), community resources and court processes. Depending on the size of your community, FLIC will be staffed at designated times by an Information and Referral Coordinator (IRC), who can make referrals for you to other services, and by an Advice Lawyer, who can provide you with summary legal advice and, where necessary and appropriate, refer you to Duty Counsel (see above). Staff in the FLIC office can also schedule your Mandatory Information Program session.

**CRIMINAL COURT**

N/A

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FAMILY MEDIATION SERVICE

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**FAMILY COURT**

Most family courts have family mediation services available, some of it on-site at the courthouse and some of it off-site in the mediators' office. User fees for off-site mediation are charged to clients on a sliding scale based on the client's income. You can get information about mediation services at your court from FLIC (see above).

**CRIMINAL COURT**

N/A

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COURT SECURITY

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**FAMILY COURT**

Most courts have police officers or other security guards present to ensure the safety of all those in the courthouse. If your courthouse has security at the entrance (including a metal detector), you can ask the people working there about how to access the assistance of security personnel should you need it while you are at court.

**CRIMINAL COURT**

Most courts have police officers or other security guards present to ensure the safety of all those in the courthouse. If your courthouse has security at the entrance (including a metal detector), you can ask the people working there about how to access the assistance of security personnel should you need it while you are at court.

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FAMILY COURT SUPPORT WORKER

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**FAMILY COURT**

Family Court Support Workers (FCSWs) are professionals, not lawyers, who provide support to survivors of family violence who are involved in the family court process. If you would like to meet with an FCSW, ask at the filing counter or FLIC for information about where and when you can find the worker at your court. You can also visit the following website for a list of FCSWs across Ontario at [attorneygeneral.jus.gov.on.ca](http://attorneygeneral.jus.gov.on.ca).

**CRIMINAL COURT**

N/A

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**COURT STAFF**

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**FAMILY COURT**

There are a number of court staff who have different responsibilities. Outside the courtroom, you will encounter clerks at the filing counter who can give you basic information about where you can find different services. They are responsible for issuing and filing court documents. In the courtroom, there is a court clerk, who is responsible for maintaining order in the courtroom, and the court reporter, who is responsible for recording the proceedings.

**CRIMINAL COURT**

There are a number of court staff who have different responsibilities. Outside the courtroom, you will encounter clerks at the filing counter who can give you basic information about where you can find different services. They are responsible for issuing and filing court documents. In the courtroom, there is a court clerk, who is responsible for maintaining order in the courtroom, and the court reporter, who is responsible for recording the proceedings.

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**CROWN ATTORNEY**

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

The Crown Attorney is the person responsible for prosecuting a case in criminal court. This lawyer will work with the police and with the victim to prepare the case to go to court. If you are a victim/witness, most of your contact with the Crown Attorney will be facilitated by the V/WAP worker (see below).

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**DEFENCE LAWYER**

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

The defence lawyer is the person who represents the accused in a criminal trial.

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**ABORIGINAL COURT WORKER**

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

Aboriginal court workers explain legal rights and obligations to their clients, assist them in finding a lawyer and interpreter if one is needed, assist with pre-sentence reports and bail hearings and make referrals for other services.

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SALVATION ARMY, ELIZABETH FRY SOCIETY, JOHN HOWARD SOCIETY

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

Depending on the size of your community, any or all of these organizations may have staff or volunteers available to assist accused people. They may be able to provide basic information about the process, assist with housing in a halfway house or other similar facility and make referrals to lawyers and other services and supports.

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VICTIM/WITNESS ASSISTANCE PROGRAM

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

The Victim/Witness Assistance Program (V/WAP) provides support for vulnerable victims and witnesses of violent crimes, including domestic violence and sexual assault. Generally, the police or Crown make a referral to V/WAP at the time the file is handed from the police to the Crown, but you can contact V/WAP yourself for support. V/WAP can assist by providing information about the criminal court process, court dates, bail conditions and can set up meetings for you with the Crown. V/WAP can also assist you in getting an interpreter if you need one and help you prepare your Victim Impact Statement as well as make referrals for you to community services. All V/WAP services are free.

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INTERPRETERS

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**FAMILY COURT**

The Ministry of the Attorney General provides court interpretation services in more than 80 spoken languages, as well as American Sign Language and Langue des signes du Quebec. In family court, these services are available in child protection matters and in family matters if you qualify for the Court Services Division fee waiver. French interpretation is available for all family court and child protection proceedings. You need to make arrangements with the Interpreter Coordinator at the courthouse before your court date to have an interpreter present. Duty counsel may be able to assist you with this.

**CRIMINAL COURT**

The Ministry of the Attorney General provides court interpretation services in more than 80 spoken languages, as well as American Sign Language and Langue des signes du Quebec. In criminal court, interpreter services are available for all matters for the accused, sureties and lawyers. Duty counsel will make arrangements for interpretation if you do not have a lawyer. If you are a witness, V/WAP will make arrangements for an interpreter if you need one.



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CAS LAWYER

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**FAMILY COURT**

If you are going to court to deal with a child protection matter, the CAS will have a lawyer. You can ask your lawyer or duty counsel, if you do not have a lawyer, to point out who this person is.

**CRIMINAL COURT**

N/A

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CAS WORKER

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**FAMILY COURT**

If you are going to court to deal with a child protection matter, the worker who has been handling your file will likely be at court.

**CRIMINAL COURT**

N/A

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JUSTICE OF THE PEACE

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**FAMILY COURT**

N/A

**CRIMINAL COURT**

Justices of the Peace (JPs) are provincially appointed and wear a green sash over their black gown. They do not have to be lawyers. JPs are referred to as “Your Worship,” and people in the courtroom are expected to stand when the JP enters and leaves the courtroom.

JPs handle provincial offences, bail hearings, applications for search warrants and peace bonds as well as many administrative court appearances such as arraignments and set dates.

NOTES

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TIP SHEET

MANAGING BOTH FAMILY AND CRIMINAL COURT

IF YOUR EX-PARTNER HAS BEEN CHARGED:

- ◆ Make sure you know who your ex-partner’s lawyers are. If he has different lawyers for each case, keep track of which lawyer is handling the family law case and which is representing him in criminal court.

If you have a family law lawyer:

- ◆ Make sure they know who your ex-partner’s criminal lawyer is, what your ex-partner has been charged with and the name of the Crown Attorney who is prosecuting the case against your ex-partner.
◆ Obtain a copy of your ex-partner’s bail conditions as soon as you can. You can contact the Victim/Witness Assistance Program (V/WAP) to help you with this. Provide this information to your family law lawyer so they can provide you with legal advice about how to manage the children’s contact with their father so it does not conflict with bail conditions.

If you do not have a lawyer:

- ◆ Find out what your ex-partner has been charged with and the name of the Crown Attorney who is prosecuting the case against him.
◆ You will want to be sure to include information about his charges in your family court documents.
◆ Obtain a copy of your ex-partner’s bail conditions as soon as you can. You can contact the Victim/Witness Assistance Program (V/WAP) to help you with this.
◆ Talk to your women’s legal advocate and, if appropriate, duty counsel, to be sure you understand what the bail conditions do and do not permit in terms of contact between you and your ex-partner and between him and your children.
◆ Do not be tempted or pressured by your ex-partner to ignore the bail conditions. Even though he is the one who is subject to the bail order, if you are seen to be encouraging him to break the conditions, this can create legal and safety problems for you as well.
◆ If he breaches his bail conditions, let the police know. They will decide whether or not to arrest him.
◆ Keep track of the progress of the criminal case through the V/WAP office.
◆ Use a calendar to make brief notes about any attempts your ex-partner, his friends or members of his family make to have contact with you and/or your children.
◆ Update your family court documents as needed as the criminal case progresses and is completed.
◆ Update your safety plan as needed.

STANDARDS OF PROOF

The purposes of criminal court and family court are different, as are the standards of proof, so even if your partner is found not guilty, you can still raise the issue of abuse in your family court case.

### IF YOU HAVE BEEN CHARGED:

- ◆ Try to find a lawyer who can handle both your family and criminal cases. This will ensure that relevant information is shared with the appropriate court(s) and will mean you don't have to manage communication with and between two lawyers.
- ◆ If this is not possible, then make sure each of your lawyers knows who the other one is and encourage them to share information with one another.
- ◆ Make sure you know who your ex-partner's lawyer is and pass this information on to your lawyer(s).
- ◆ Get clear information about what you have been charged with. If you have different lawyers for your family and criminal cases, give this information to your family law lawyer.
- ◆ Find out the name of the Crown Attorney who is prosecuting your case.
- ◆ Review your bail conditions with your criminal and family lawyers or, if you don't have a lawyer, with both criminal and family court duty counsel. It is really important that you understand exactly what you are and are not allowed to do, especially in terms of contact with your ex-partner and children and your access to the family home.
- ◆ Do not be tempted or pressured by your ex-partner to ignore the bail conditions. He might tell you that because he says it is okay for you to see him or the kids, you can't get into trouble, but this is not true. He might be trying to set you up just so he can call the police to claim you have breached your bail conditions.
- ◆ Use a calendar to make brief notes about any attempts your ex-partner, his friends or members of his family make to have contact with you and/or your children.
- ◆ Update your family court documents as needed as the criminal case progresses and is completed.
- ◆ Remember that the purposes of criminal court and family court are different as are the standards of proof, so even if you are found not guilty, your ex-partner can still raise the issue of abuse in your family court case.
- ◆ You need to be ready to provide an explanation for what has happened that can minimize the impact of the fact that you were criminally charged. For example, if you were charged once but your partner has been charged and found guilty several times, be sure to include this information in your family court documents. If you were charged for something you did because you were trying to protect yourself or your children from your ex-partner, describe the circumstances. If your ex-partner had a history of threatening to call the police to claim that you had assaulted him, put this information in your materials for family court.

### NO MATTER WHICH OF YOU HAS BEEN CHARGED, REMEMBER:

Family and criminal courts do not communicate with one another, so it is your job to make sure that evidence of the abuse you have been subjected to is presented to both courts.

The standard of proof in the two courts is different. In criminal court, the accused must be found guilty beyond a reasonable doubt. In family court, judges make their decisions based on which person's story they find more believable on a balance of probabilities.

If you are the victim, you are not an official party to the criminal case. In family court, both you and your ex-partner are parties to the case.

Duty counsel lawyers are available in criminal court to assist people who have been charged and in family court to assist both people, subject to financial and other eligibility criteria.

Your family law case will likely be delayed until the criminal case has been completed.

# IMMIGRATION LAW

If you are a newcomer to Canada or have sponsored your partner to come to Canada, immigration issues may arise when you and your partner separate. These can have an impact on your family law case, and your family law case can have an impact on your immigration status. If English is not your first language, you can access free, confidential interpretation services at [languageinterpreters.on.ca](http://languageinterpreters.on.ca).

## DO I NEED A LAWYER?

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Immigration law is complicated, so if possible, find a lawyer who specializes in this area of law. Ideally, your family and immigration law lawyers will be familiar with both areas, so they can watch for the implications of what happens in one area on the other.

Many abusers use immigration issues as a way to maintain power and control over their partner. You should find out what your immigration status in Canada is as soon as possible. Do not rely on your partner to tell you the truth. He may try to get you to stay with him by threatening to have you deported if you leave, but if you already have permanent status in Canada, you will not be deported for leaving him. Or he may tell you that you have permanent status when you do not.

If you are in Canada on the basis of a refugee claim made by your partner, then you may need to start your own claim to remain in Canada.

If you are a Canadian and you have sponsored your partner to come to Canada, you need to clarify your legal and financial obligations under your sponsorship if you leave him.

You need to have your own immigration lawyer, so you can be confident that you are getting truthful answers to your questions.

## WHEN CAN I BEGIN A FAMILY COURT CASE?

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Regardless of your immigration status, you can begin a family court case. However, if your status is precarious, you should consult with both an immigration and family law lawyer before starting a case in family court, because the case could bring you to the attention of immigration authorities, especially if your partner reports you in an attempt to get you to come back to him.





# AFTER COURT IS OVER

The family court process can be long and difficult. By the time it is over, you may be exhausted. You will likely also be sick and tired of dealing with your ex-partner.

Unfortunately, your ex-partner may not yet be ready to give up his power and control over you, so you can't completely let your guard down once court is over. You may need to put some plans in place to help you and your children respond to your ex-partner's harassment, set boundaries and eventually regain control of your lives.

Every woman's plans for doing this will be different and dependent on her own situation. If you don't have children, for instance, it may be somewhat easier for you to limit your contact and communication with your ex-partner. If you have children, your plans will depend on whether you still both live in the same community, the ages of your children, whether one of you still lives in the family home, whether you are dependent on him for financial support, what the details of your arrangements for the children are, and so on.

## LOOKING AHEAD

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Now that your family law process is over, you can start to look ahead for yourself. This can be both exhilarating and intimidating. You need to become comfortable making yourself a priority.

You will need to set some goals for yourself and develop a plan to help you achieve those goals. To do this, think honestly and positively about your strengths, what you enjoy doing, what you are passionate about.

You may want to meet new people, especially if you have left some of your old circle of friends behind. You may be able to do this by finding some volunteering activities, becoming active in your new neighbourhood if you have moved or joining a community group.

You may not be used to thinking of yourself as capable, so celebrate each milestone, from big ones like finishing with family court to small ones like the first time you take on a responsibility that your ex-partner would typically do. And don't hesitate to call on friends and family to help you with tasks you have never done before, especially if they are willing to help you learn how to do them yourself.



Find friends who make you feel good about yourself and with whom you can laugh as well as be serious. Build yourself a support network of these people and call on them when you need them, whether it is for a shoulder to cry on, someone to take the kids for a couple of hours when you just can't cope anymore or someone you can vent to about problems you are having with your ex-partner.

Don't worry if you have good days followed by bad ones. Your life is undergoing a huge transformation, so it is perfectly normal that you will feel differently about it at different times. Be kind to yourself.

You may find it helpful to keep a journal during this time. If you do, be sure to keep it in a secure place so your kids won't stumble on it and your ex-partner won't be able to find it.

Physical activity is an important part of self-care. You don't have to become an Olympic athlete, but building exercise into your routine will be good for you emotionally as well as physically.

Depending on your personality, how long you were with your partner, how he is behaving now that you are separated and other factors, it might take you a few years before you feel like you are consistently back on your feet again.

Don't be afraid to seek out professional help. Your women's legal advocate can suggest experienced counsellors and therapists who have worked with women who have left abusive relationships. If you were seeing a counsellor or therapist during your family court case, consider continuing to see them, at least for a while, after your case is completed. You may need this ongoing support as you develop a new kind of working relationship with your ex-partner.

For more tips on taking care of yourself, see the self-care section.

## **BUILDING A POST-SEPARATION RELATIONSHIP WITH YOUR EX-PARTNER**

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### **SAFETY**

The first step to building a workable post-separation relationship with your ex-partner is to identify any safety concerns you have and put measures in place to reduce the risk of harm to you and your children. For example:

- ◆ Do you need to change the locks on your home?
- ◆ Do you need to install special security at your home?
- ◆ Do you need a secure parking spot at work?

### **NOTES**

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NOTES

Horizontal lines for taking notes.

- ◆ Do you need to be careful how you use social media?
- ◆ Does your ex-partner’s behaviour mean you should only communicate with him in writing?
- ◆ Do you need to manage exchanges of the children in a particular way?
- ◆ Do you think your ex-partner will have a negative reaction if/when you begin dating?

Refer to our Safety Planning section for more information and tips.

REASON FOR CONTACT

Once you have addressed safety issues, you can move on to identify the reason(s) you need a relationship with your ex-partner. For example:

- ◆ Do you need to stay connected because you are co-parenting children?
- ◆ Are you staying in touch because you are still close to his ageing parents (or perhaps even involved in providing support or care to them)?
- ◆ Are you in the process of selling the family home so you need to be able to discuss offers and decide together when to accept one?

If you are co-parenting children, you will need to be in a relationship with your ex-partner for some time – possibly many years – and will need to be able to have countless conversations about the children, some of them difficult. On the other hand, if you don’t have kids and just need to communicate with him for the purpose of selling the family home, this is a short-term relationship with a relatively straightforward purpose.

WHEN THERE ARE CHILDREN

The best first step to a positive post-separation relationship with your ex-partner if you are both involved with your children is a good order or agreement spelling out the arrangements for them. The more details that are set out with precision in the order, the less room for misinterpretation, misunderstanding or manipulation, and the fewer issues you and he will have to talk about.

With this order in place, you and your ex-partner need to build a structure for your ongoing, but new, relationship:

- ◆ How often will you communicate?
- ◆ How will you communicate (in writing, in person, by telephone, etc.)?
- ◆ What will you do when a conflict develops between the two of you about a parenting decision or a child who does not like a parenting decision you have made?
- ◆ Are you comfortable with your ex-partner coming into your house when he is picking up or dropping off the children?
- ◆ How will you integrate new partners into this relationship?







## NOTES

Limit what you share with them so they don't feel like they have to become involved in the adult issues. At the same time, listen to them so you know what they are worried about, what they want for their future in your newly configured family, what kind of support they might want, how they feel about decisions that will have an impact on them.

It is really important, no matter how old your kids are, for them to hear consistently from you that you love them, that the family breakup is not their fault, that they are not to worry about money and that it is okay for them to keep loving their father too.

To the extent that you can, make changes slowly and try to stick to familiar structures and routines. For example, even if the children are going to have to change schools, can it wait until the end of the school year or at least the end of the term?

If it is safe, develop similar (or at least not contradicting) strategies with your ex-partner so the children learn there will be consistency between their two homes about things like homework, chores, bedtimes and so on.

Your children will be affected socially, physically, emotionally and academically if they are exposed to ongoing conflict between you and your ex-partner. You cannot control his behaviour, and you should never put yourself in an unsafe situation just to avoid conflict, but if you do the best job you can to behave in a non-emotional and respectful way toward him, you will reduce the tension to which your children will be exposed.

Now may be a good time to involve extended family if your children are already close to them. A child may be able to share with a grandparent some of the anxieties that they don't want to burden you with.

Depending on how severe your children's emotional reactions to the new structure of your family are, you may need to consider finding professional support for them.

To find counselling services for children who have witnessed abuse, please contact your local women's shelter. Find the closest shelter at [sheltersafe.ca](http://sheltersafe.ca), or visit Children's Mental Health Ontario at [cmho.org](http://cmho.org).



## POST-SEPARATION COMMUNICATION DO'S AND DON'TS

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### DO

- ◆ Communicate directly with your ex-partner.
- ◆ If you are meeting with your ex-partner, do so in a safe, preferably public place.
- ◆ Schedule difficult conversations for times when the children won't hear them.
- ◆ Be prepared before conversations with your ex-partner, especially if you anticipate you may not agree with one another.
- ◆ Keep a record of your communication.
- ◆ Take the time to think carefully about what words to use. Avoid words and language that you know will hurt or anger your ex-partner or that will just make emotions run even higher than they already are.
- ◆ Think carefully about the timing of difficult messages so you communicate them at a time when your ex-partner will be the most receptive.
- ◆ Be focused, clear and precise.
- ◆ Set communication boundaries. If your plan is to communicate only by email, when he calls you, respond by email so at least you are being consistent.
- ◆ Focus your communication on the issue at hand.
- ◆ Remember **BIFF**: brief, informative, friendly, firm
- ◆ Use a respectful or at least neutral tone of voice, whether in written or verbal communication.
- ◆ Take time to really listen to what your ex-partner has to say.
- ◆ Bring an open attitude, assuming the best.
- ◆ Be polite, honest, kind or at least neutral.
- ◆ End conversations that are not healthy or productive, and if necessary, come back to the subject at a later time or in a different way.

### DON'T

- ◆ Don't use your kids or other family members as messengers between you and your ex-partner.
- ◆ Don't meet with your ex-partner in your or his home.
- ◆ Don't have difficult conversations or arguments when the children can hear.
- ◆ Don't rush into conversations with your ex-partner. You are more likely to get backed into a corner and agree to an outcome you don't want if you are unprepared for the conversation.
- ◆ Don't throw out any written communication or delete abusive phone calls or texts.
- ◆ Don't communicate in haste. Responding quickly to something your ex-partner has said might feel great in the moment, but if your anger or frustration come through in your communication, you could have more problems down the road.
- ◆ Don't send a communication to your ex-partner that you think will make him angry when the kids are with him or if you are about to see him in person.
- ◆ Don't let yourself get sidetracked.
- ◆ Don't break communication boundaries that you and your ex-partner have agreed on, unless it is an emergency. For example, if you have agreed to communicate by email, don't suddenly call him.
- ◆ Don't use communication to raise every little thing you don't like about your ex-partner.
- ◆ Don't ramble or raise unrelated topics that you know will be contentious.
- ◆ Don't use vulgar or aggressive language, no matter how you are feeling.
- ◆ Don't do all the talking.
- ◆ Don't make assumptions.
- ◆ Don't be rude, dishonest, cruel.
- ◆ Don't continue conversations that are abusive, disrespectful or harmful.













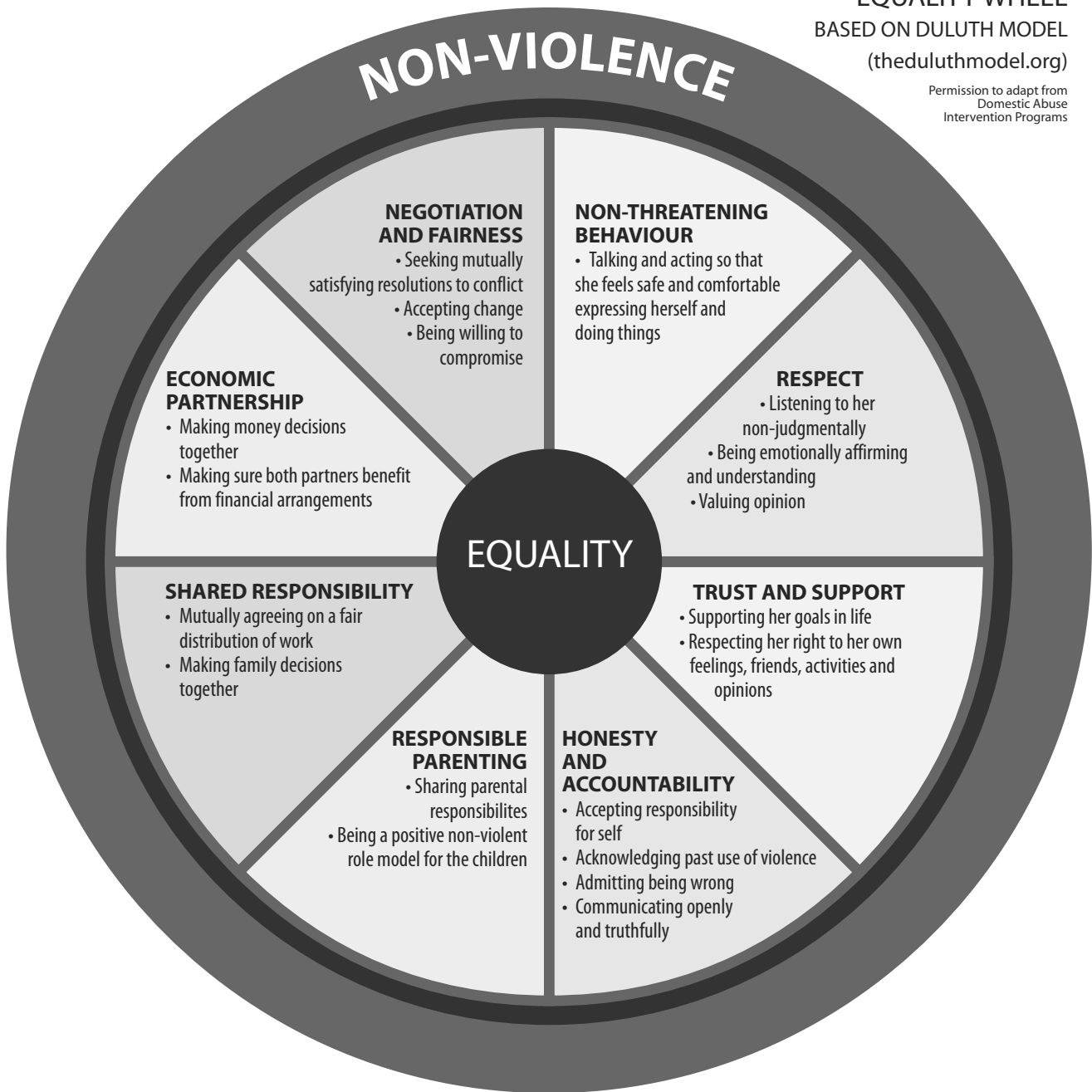






**EQUALITY WHEEL**  
BASED ON DULUTH MODEL  
(theduluthmodel.org)

Permission to adapt from  
Domestic Abuse  
Intervention Programs



**NOTES**

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# CONCLUSION

We hope that you have been able to use this workbook in a way that is empowering, informative and meaningful.

The family court system has considerable power and influence. It is important that those who need to use it are well informed and have a voice in the process. This can be especially difficult when you have just left an abusive partner and may be feeling particularly vulnerable.

We strongly encourage you to work with a Family Court Support Worker or a women's legal advocate at the shelter in your community. These workers can provide you with important information and support as you make your way through the family law process.

Always remember that by leaving your abusive partner, you have taken an important and courageous step toward building a life free from abuse and violence for yourself and your children.

## FOR YOUR INFORMATION ONLY

Please remember that the content of this workbook is information and not legal advice. If you have questions about your situation or your family law case, you should discuss them with your lawyer or with duty counsel at your family court.





# FAMILY COURT AND BEYOND

## A SURVIVAL WORKBOOK FOR WOMEN

Produced by Canada's first stand-alone family court support centre for abused women, Luke's Place Support and Resource Centre in Durham Region, Ontario, *Family Court and Beyond* is a must-have for women and service providers alike. Co-authored by long-time violence against women lawyer Pamela Cross and project coordinator Rachael MacLean, this workbook features plain-language legal information about family law and related issues; it also provides tools designed to support women who are taking charge of their stories as they work toward lives free from violence for themselves and their children.

