If you speak French

In many cases you have the right to government services and legal proceedings in French, including hearings before French-speaking decision-makers.

If you have a legal problem, you can ask a lawyer or a community legal clinic about your French language rights.

Si vous parlez français

Il existe de nombreuses situations où vous avez droit à des services gouvernementaux et à des procédures juridiques en français. Ainsi, vous pouvez avoir droit à ce qu’une audience à laquelle vous êtes partie soit tenue devant un décideur qui parle français.

Si vous avez un problème juridique, vous pouvez demander à un avocat ou à un intervenant d’une clinique juridique communautaire de vous informer des droits linguistiques liés au fait de parler français.
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What is child support?

Parents who do not live together sometimes make a plan that deals with things like where a child will live.

The parent that the child lives with most of the time usually has most of the expenses of raising the child. The other parent must usually help with those expenses by paying money to the parent the child lives with. This is called **child support**.

Who pays child support?

All parents have a legal duty to financially support their dependent children. A parent can be a birth parent, a non-birth parent, or an adoptive parent. They could also be a step-parent or a person who has a parent-child relationship with the child.

The parent who pays child support is called the **payor** parent.

For more information about who is a dependent child, see **How long does child support continue?** on page 18.

More than one parent can have a legal duty to pay child support for the same child. For example, if a child’s birth parent and step-parent separate, the other birth parent and the step-parent might both have to pay child support.
Parents must support their children even if they:

- do not live with the children
- do not see the children
- are not married to the other parent
- did not live with the other parent
- did not have an ongoing relationship with the other parent
- have other children from a previous or new relationship

**Step-parent**

A step-parent is someone who has treated their partner’s children as members of their own family. It does not matter if the partners were legally married to each other or living common-law.

But a court is less likely to order a step-parent to pay child support as more time passes since they lived with or had a relationship with their partner’s child. This is especially true if the step-parent’s social and emotional relationship with the child has ended.

### How is child support calculated?

In most cases, the amount of child support paid is based on the government’s Child Support Guidelines. These Guidelines say that child support is usually made up of both:
● a basic monthly amount, called the **table amount**

● an amount for other expenses, called **special or extraordinary expenses**

**Table amount**

The Child Support Guidelines have a Child Support Table for each province and territory. The Table shows the **basic** monthly amounts of child support to cover expenses like clothes, food, and school supplies. The basic amount is also called the **table amount**.

The table amount is based on the gross annual income of the payor parent and the number of children they have to support. Gross annual income means total income before paying taxes and most other deductions. It is usually the amount on line 150 of the payor parent’s income tax return.

In simple cases, the amount of child support paid is based on the Table. In more complicated cases, the amount of child support paid is based on the Table and on other things.

The Child Support Table for each province and territory is different. If both parents live in Ontario, the Ontario Table applies. If the payor parent lives in another Canadian province or territory, the Table for that province or territory applies. If the payor parent lives
outside of Canada and the other parent in Ontario, the Ontario Table applies.

To get a copy of the Child Support Table for Ontario call 1-888-373-2222. Or visit the Department of Justice Canada’s website at www.justice.gc.ca/eng/fl-df and click on “Child Support” to find Tables for each province and territory and an online “Look-up” tool that will calculate the amount.

Here are some examples of monthly child support payments based on the Table for Ontario:

<table>
<thead>
<tr>
<th>Payor’s Income per year</th>
<th>1 child: Support payment per month</th>
<th>2 children: Support payment per month</th>
<th>3 children: Support payment per month</th>
</tr>
</thead>
<tbody>
<tr>
<td>$12,000</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$15,000</td>
<td>$79</td>
<td>$170</td>
<td>$183</td>
</tr>
<tr>
<td>$20,000</td>
<td>$161</td>
<td>$311</td>
<td>$360</td>
</tr>
<tr>
<td>$30,000</td>
<td>$256</td>
<td>$459</td>
<td>$621</td>
</tr>
<tr>
<td>$40,000</td>
<td>$359</td>
<td>$597</td>
<td>$805</td>
</tr>
<tr>
<td>$50,000</td>
<td>$461</td>
<td>$755</td>
<td>$977</td>
</tr>
</tbody>
</table>

Special or extraordinary expenses

As well as the table amount, the Child Support Guidelines say that the parents might also have to help pay certain other expenses. These are called special or extraordinary expenses. Some examples of these expenses are:
• child-care fees, such as daycare, to allow the parent who looks after the child to go to work or school

• the part of medical and dental insurance premiums the other parent pays to cover their child

• their child’s health expenses, such as orthodontics, prescriptions, eyeglasses, counselling, or hearing aids

• reasonable and extraordinary expenses to meet the child’s particular education needs, such as tutors or private school fees

• expenses for post-secondary education

• reasonable and extraordinary expenses for the child’s extracurricular activities, such as competitive sports classes, that are not covered by the table amount

An expense may be a special or extraordinary expense, if it is both:

• reasonable which means that the parents can afford it, and

• necessary for the child’s best interests. For example, the expense was part of the family’s spending pattern before the parents separated.
In most cases, both parents contribute to special expenses based on how much they make. So, if both parents make roughly the same amount of money, they split the cost of special expenses equally. If a child pays some of their own expenses, that amount is subtracted before the parents divide the expense.

### When is basic child support different from the table amount?

The Child Support Guidelines say that the amount of basic child support can be different from the table amount for different reasons. Here are a few situations when basic child support might be different:

**Step-parents**

A step-parent might pay an amount that is different from the table amount. They might pay less if, for example, there is another parent who also pays child support.

**Shared custody**

If each parent has the child at least 40% of the time, the Child Support Guidelines say they have shared custody. In this situation, the amount of support paid might be less than the table amount because it is assumed that both parents are paying for the child’s ordinary expenses.
The parent who claims to have shared custody has to prove that the child is with them at least 40% of the time.

Time is usually calculated by counting the time the parent is responsible for the child, not the time that the parent is physically with the child.

For example, the time the child is at swimming lessons or school counts as time with the parent who is responsible for the child during that time.

The Guidelines do not say exactly how to calculate support in a shared custody situation. They say that child support should consider several things. Usually, this means first looking at the table amount for each parent based on their gross annual income. The smaller table amount is subtracted from the larger table amount. The remaining amount is called the set off. The parent who would pay more in child support pays the set off to the parent who would pay less in child support.

But the set off amount might be more or less depending on:

- the added costs of a shared custody plan, such as if both parents have extra housing or food costs
- each parent’s situation, such as if they live with a new partner who shares expenses, or have other dependents to support
### Split custody

When parents have more than one child, sometimes, one child lives most of the time with one parent and the other child lives most of the time with the other parent. This is called **split custody**.

When this happens, each parent usually pays the table amount for any children living with the other parent. The parent who has to pay the higher amount must pay the difference to the other parent.

Shared custody and split custody are terms used in the Child Support Guidelines to refer to the **amount of time** a child spends with each parent. They do not mean the same thing as sole custody and joint custody. Sole custody and joint custody refer to the **right to make major decisions** about a child.

### What income information is needed to calculate child support?

The payor parent usually has to give detailed information about their income. The other parent might have to share the same information. For example, if:
● there are special or extraordinary expenses,
● they have shared or split custody, or
● they do not agree on who has to pay support.

Examples of information that must usually be shared include:

● income tax returns,
● statements of earnings from employers,
● financial statements if the parent owns a business, and
● notices of assessment and reassessment.

**Imputing income**

If a parent does not agree with what the payor parent says their income is, they can go to court and ask a judge to decide an amount for the payor parent’s income. For example, if the payor parent:

● does not share information about their income

● does not have a job or is underemployed on purpose

● is self-employed or is being paid in cash, and there is reason to believe they do not report all of their income
The judge might decide an amount for the payor parent’s income that is reasonable based on things such as the parent’s work history, past income, and education. This is called **imputing income**. The judge applies the Table to that income.

### Updating income information

If there is a court order or separation agreement that deals with child support, it might require the payor parent to update their income information each year.

If support is calculated using the Ontario government’s online Child Support Service, each parent whose income was used to decide the amount of support must give updated income information to the other parent each year. This must be done unless the parents agree to something else.

### How do parents decide on the amount of child support?

**If parents agree**

Some parents discuss and agree on the amount of child support on their own.

If they do, they can put what they agree on in a written agreement called a separation agreement. An agreement can deal with child support alone, or can
also include other issues like spousal support, custody and access, and dividing property.

Parents do not need a lawyer to make an agreement. But it is a good idea for each parent to get their own legal advice before signing one. Parents cannot get advice from the same lawyer.

Usually, the parents agree on child support based on the Child Support Guidelines.

In some cases, parents agree not to follow the Guidelines. But they should look at the Guidelines before deciding on the amount of support to make sure it is reasonable. If they do not follow the Guidelines, their agreement should say why not.

If a parent later asks the court to order child support that is different from their agreement, the court looks at what it would have ordered under the Guidelines.

**If parents don’t agree**

If the parents cannot agree on the amount of child support to be paid, they can:

- get help from a family law professional
- use the Ontario government’s online Child Support Service
- go to family court
Get help from a family law professional

Family law professionals are people who work with both parents to help them reach an agreement. They are neutral, which means they do not take sides. In some cases, they can also make a decision when parents don’t agree.

Family law professionals can work in:

- mediation
- arbitration
- mediation-arbitration
- collaborative family law
- parenting coordination

These processes are sometimes called alternative dispute resolution (ADR) because they try and help solve issues without going to court.

A family law professional may also be called an ADR professional or a family law dispute resolution professional.

ADR is voluntary. So a parent cannot be forced to agree to use ADR.

Mediation

The Ministry of the Attorney General offers free and sliding-scale mediation services in family courthouses. Sliding-scale means the amount a parent pays depends
on their income and the number of children they have to support.

To find out more about these services, search for “Family Mediation Services” on the Ministry’s website at www.attorneygeneral.jus.gov.on.ca.

Parents can also hire a private mediator.

**Use the Ontario government online service**

Some parents can apply to use the Ontario government’s online Child Support Service (CSS) to calculate child support.

Usually, CSS can only decide child support in simple cases where the table amount applies. It can only be used for some special or extraordinary expenses. And, it cannot calculate retroactive child support.

CSS uses income information from the parents to calculate how much child support should be paid. This is usually based on a parent’s income tax return. Using this income information, CSS sends the parents a **Notice of Calculation** that tells them how much child support must be paid. Parents are expected to follow this Notice like a court order.

CSS can be used to set up child support only if **all** of these things are true:

- both parents agree to use CSS
- the payor parent gives income information
● each parent pays a fee, but if their income is low enough, a parent can apply to have the fee waived

● CSS applies to their situation

CSS will not apply if any of the following are true:

● one parent does not live in Ontario

● any of their children are older than 17.5 years, or are married

● the payor parent gets more than 20% of their income from self-employment, rental income, or investment income

● the parents have shared or split custody

Visit www.ontario.ca/page/set-up-or-update-child-support-online and click the “Set up or update child support” button to use CSS.

Go to court

If parents cannot agree on child support or to use the online Child Support Service, they may have to go to court and ask a judge to decide.

Going to court can be a complicated process and take a lot of time. It can be stressful and expensive, but it is sometimes necessary to decide the issues.
Judges decide child support by using the Child Support Guidelines. The only times the court can order amounts without applying the Guidelines are when:

- both parents agree and the judge thinks the plans made for child support are reasonable, or
- the judge thinks that the Guideline amount would be unfair because there is some special arrangement that benefits the child.

Even after the court process has started, parents can stop it by making an agreement. Many steps in the court process encourage parents to agree.

The flowcharts in CLEO’s *Steps in a Family Law Case* can help parents understand and follow the court process. Visit [www.familycourt.cleo.on.ca](http://www.familycourt.cleo.on.ca).

### How is child support enforced?

An Ontario government office called the Family Responsibility Office (FRO) can enforce support payments. This means that the FRO collects child support directly from the payor parent, keeps a record of the amounts paid, and then pays that amount to the other parent.

If there is a separation agreement dealing with child support, the parents can file their agreement with the FRO after filing it with the court. If there is a court order dealing with support, the court automatically files it
with the FRO. If support is calculated using the online Child Support Service, the Ministry of the Attorney General automatically files the Notice of Calculation with the FRO.

If a parent misses a payment, the FRO can do things to enforce the agreement, court order, or Notice of Calculation. To do this, the FRO needs up-to-date information about the payor parent. This includes their full name, address, social insurance number, place of employment or business, income, and any property they own.

The FRO has different ways to collect unpaid support from the payor parent. It can:

- deduct the payments automatically from their wages or other income, for example, sales commissions, Employment Insurance, Workers’ Compensation, income tax refunds, severance pay, and pensions
- register a charge, or a lien, against their personal property or real estate
- take money from, or garnish, their bank account, or garnish up to half of a joint bank account that they have with someone else
- make an order against anyone who is helping them hide income or assets that should go toward support
The FRO can also put pressure on parents who do not pay. It can:

- suspend their driver’s licence
- report them to credit bureaus so that it is difficult for them to get loans
- cancel their passports

Sometimes the parent getting support withdraws from the FRO because it is easier to get payments directly from the other parent. But if there are problems later and they want to re-file with the FRO, they might have to pay a fee.

The FRO cannot change the amount of child support that the payor parent has to pay. If either parent thinks the amount has to change, they need to make a new agreement, apply to the online Child Support Service for a Notice of Recalculation, or go to court.

To contact the Family Responsibility Office, visit their website at www.mcss.gov.on.ca/mcss/english and click on “Family Responsibility Office”, or call:

- Toll-free ......................... 1-800-267-4330
- Toronto area ..................... 416-326-1817
- TTY ............................. 1-866-545-0083
How long does child support continue?

Child support must be paid as long as the child remains dependent. Dependent usually means until the child turns 18 and sometimes longer.

A child is not dependent if they:

- marry, or
- are at least 16 years old and choose to leave home

A child who is 18 or older may also be considered dependent if they cannot support themselves because:

- they have a disability or illness, or
- they are going to school full-time. This usually continues until the child turns 22 years old or gets one post-secondary degree or diploma, but a judge may order support to continue even longer.

When the judge decides how much support should be paid for a child who is 18 or older, they usually take into account any earnings or income the child gets from other sources.

Child support does not stop just because a parent gets married, starts to live with someone else, or has another child.
When can a parent ask for child support?

Parents who have their children living with them after they separate can ask for child support at any time. They can ask the other parent directly. It is important that they ask for it in writing. Or they can apply to court. Often, a parent asks for custody and child support at the same time.

It is usually best to deal with these matters as soon as possible.

Is it possible to get retroactive child support?

Yes. If a parent does not ask for child support right away, they can ask for it later. A parent may be able to get child support for a period of time before they apply to the court for support. The court looks at the following things when deciding on retroactive child support:

- why the application for support was delayed
- the behaviour of the payor parent
- the child’s situation in the past and now
- whether ordering retroactive support causes severe difficulty for the payor parent
The court usually limits retroactive support to the past 3 years, unless the payor parent acted in a blameworthy way. For example, if the payor parent hid a pay increase from the other parent.

Parents cannot ask for retroactive child support using the online Child Support Service. They must go to court or reach an agreement for any past child support.

Can a parent be stopped from seeing their children if they do not pay child support?

No. The right to child support and access are separate legal issues. They are both rights of the child.

A parent cannot be denied access to their child because they have not paid child support. And a parent might still have to pay child support even if they do not have access. For more information, see CLEO’s publication Separation and Divorce: Child Custody, Access, and Parenting Plans.

How is child support taxed?

The parent who gets child support is not taxed on the amount. The parent who pays child support cannot deduct the payments from their taxable income. This is different from how spousal support is taxed.
What about parents who get social assistance?

Parents have to report child support payments to Ontario Disability Support Program (ODSP) or Ontario Works (OW). But, child support payments do not affect the amount of social assistance that a parent gets. So if they get child support, they get that money and their social assistance.

But this only applies to child support that is owed for periods of time on or after these dates:

- January 1, 2017, for parents who get income support from the ODSP
- February 1, 2017, for parents who get financial assistance from OW

This means a parent has to pay ODSP or OW back if:

- they got child support that was owed for periods of time before the dates listed above, and
- they got social assistance for the period of time that the child support payment is for.

They have to do this even if they got the support payment on or after the dates listed above.

For more information, see CLEO’s publication, Child and spousal support when you are on social assistance.
The Child Support Guidelines say that payor parents on social assistance with a yearly income of $12,000 or less do not have to make child support payments.

How can child support be changed?

There are several ways to change existing child support payments.

Make a new agreement

If both parents agree to change child support, they can make a new agreement. The agreement must be dated, and signed by both parents and a witness.

If the new agreement changes an old agreement that was filed with the court, a Notice of Calculation, or a Notice of Recalculation, then any new agreement should also be filed with the court. If it is not filed with the court, the Family Responsibility Office cannot enforce the new support amount.

If the new agreement changes a final court order, the parents need to ask the court to change their order based on their new agreement.

Use the Ontario government online service

In some cases, parents can use the online Child Support Service (CSS) to change child support. Based
on new income information, CSS sends the parents a Notice of Recalculation that tells them how much child support must be paid.

You cannot use the service if you used CSS to decide or change child support less than 6 months ago.

Visit [www.ontario.ca/page/set-up-or-update-child-support-online](http://www.ontario.ca/page/set-up-or-update-child-support-online), scroll down the page, and click on the “Set up or update child support” button to change child support using the CSS.

**Important:** Only one parent needs to ask to change child support online. The other parent does **not** need to agree. They get a notice in the mail from the Ministry of the Attorney General that says the other parent applied to change child support online and CSS agrees that it can make the change.

The payor parent can disagree if the information the other parent gave was wrong. If they do not respond within **25 days** of the notice being sent, CSS might change their support payment without their response.
Get a court order

If the parents cannot agree, or cannot use or do not want to use the online CSS, either parent can ask the court to change child support.

Unless the other parent agrees, the court only makes a change if there has been a **significant** change. For example, if:

- the payor parent’s income has gone up or down
- the child has left the parent’s house voluntarily
- the child is now living with the payor parent
- the child is no longer in daycare or full-time school

A change in the income of the parent getting support is usually not a reason to change the order. This is because that parent’s income is not usually taken into account when support is calculated.

### Finding a lawyer

**Law Society of Ontario**

The Law Society of Ontario (LSO) has a directory of all lawyers who can practise law in Ontario. Make sure the lawyer you hire has experience with family law. The Law Society also has a Directory of Certified Specialists who focus on family law.
Visit the Law Society website at www.lso.ca and click on “Find a Lawyer or Paralegal”, or call them at:

Toll-free .............................. 1-800-668-7380
Toronto area .......................... 416-947-3300

The Law Society Referral Service is an online service that gives you the name of a lawyer in your area who can give you a free consultation for up to 30 minutes. You can ask for a lawyer who speaks your language, or a lawyer who accepts Legal Aid certificates. For more information on Legal Aid certificates, see What if I cannot afford a lawyer? on page 26.

You can also call them on their crisis line if you cannot use the online service, for example, if you are in custody, in a shelter, or in a remote community without access to the Internet. This line is available from Monday to Friday, 9 a.m. to 5 p.m.

Visit www.findlegalhelp.ca or call:

Toll-free Crisis Line ............... 1-855-947-5255
Toronto area Crisis Line .......... 416-947-5255

Legal Aid Ontario

Legal Aid Ontario also offers a searchable directory of lawyers. You can search for family law lawyers by location and language. Visit www.legalaid.on.ca/en/ and click on “Finding a lawyer”.
Getting more information

Family Law Information Centres (FLICs)

The Ministry of the Attorney General has a Family Law Information Centre (FLIC) in every courthouse that deals with family law. All FLICs have free pamphlets. Many FLICs have staff who can give information and refer you to community agencies and legal services. To find a FLIC in your area visit the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca.

Advice Lawyers

At FLICs, advice lawyers from Legal Aid Ontario are available at certain times to answer questions, give general legal advice, and review legal documents on family law issues. Contact your local FLIC to find out when the advice lawyer is available.

What if I cannot afford a lawyer?

You may be able to get help from Legal Aid Ontario (LAO). LAO helps people with a low income get legal assistance through a range of services. Your income must be low enough to get most of these services. Call LAO to find out if you are eligible.
Visit www.legalaid.on.ca or call them at:

Toll-free ........................................ 1-800-668-8258
Bell Relay Service ......................... 1-800-855-0511
Toronto area ................................. 416-979-1446
(accepts collect calls)

Some of the services LAO offers are:

**Family Law Service Centres**

At Family Law Service Centres you can get help with court documents, and get referrals to other types of services. These centres are located in several places in Ontario.

**Family Law Offices**

There are Family Law Offices in Kenora, Ottawa, and Thunder Bay that can help with issues like custody, access, support, child protection, and restraining orders.

**Family duty counsel**

Family duty counsel may be able to give you advice about family law issues and basic court process, help negotiate a settlement, and help you in court. But they cannot represent you at trial. Most courts in Ontario have these services.
General legal advice
You may be able to get free advice about your family law issue from a lawyer for up to 20 minutes. This service is only given over the phone.

Certificate program
You can apply to LAO for a certificate to cover the cost of a lawyer to represent you for a certain number of hours.

You may be able to get a certificate if your situation involves family violence, child protection, or complex family law issues.

Faster certificates for victims of family violence
If you are a victim of family violence and let LAO know this when you call them, you are placed in a priority line for help with applying for a certificate. In urgent cases, you may be able to apply in person and get a certificate, possibly on the same day you apply.

Law school clinics
Each law school in Ontario has a legal aid clinic staffed by law students who are supervised by lawyers. These clinics are located in Kingston, London, Ottawa, Thunder Bay, Toronto, and Windsor.
Law school clinics can help with child custody, access, and child support issues. Some of them can also help with other family law issues such as property division and spousal support.

### Other information and resources

**Community Legal Education Ontario (CLEO)**

CLEO has a series of family law information resources available online and in print. Other topics in the series include child support, child custody, spousal support, and property division. To order these publications or view them online, visit [www.family.cleo.on.ca](http://www.family.cleo.on.ca) or call 416-408-4420.

CLEO’s **Steps in a Family Law Case** has 3 interactive flowcharts that help people understand and work through the family law court process. Visit [www.familycourt.cleo.on.ca](http://www.familycourt.cleo.on.ca).

CLEO’s **Steps to Justice** is a website that gives step-by-step information about common legal problems, including family law issues. Steps to Justice has practical tools like forms and checklists, and referral information for legal and social services. Visit [www.stepstojustice.ca](http://www.stepstojustice.ca).
CLEO’s **Family Law Guided Pathways** are a series of online interviews that help you fill out the court forms you need for family law matters. The pathways ask you questions and then put your answers into the required court forms. The pathways are free to use. Visit [www.steptojustice.ca/guided-pathways](http://www.steptojustice.ca/guided-pathways).

**Ontario government family law website**

The Ministry of the Attorney General has information on many family law issues at [www.attorneygeneral.jus.gov.on.ca/english/family](http://www.attorneygeneral.jus.gov.on.ca/english/family). The site also has information about the family court process and a publication in 9 different languages called *What you should know about Family Law in Ontario*.

**Family Law Education for Women website**

This website provides online resources on women’s rights under Ontario family law. These are available in 14 languages and in multiple formats. Visit [www.onefamilylaw.ca](http://www.onefamilylaw.ca).

**Family Law Information Program**

The Family Law Information Program is an online resource for those about to enter the family court system. It is available on the Legal Aid Ontario website at [www.legalaid.on.ca](http://www.legalaid.on.ca).
Ontario court websites

Two of Ontario’s family courts have information about their court process. Go to the Ontario Court of Justice website at [www.ontariocourts.ca/ocj](http://www.ontariocourts.ca/ocj) and search for *Representing Yourself at Your Family Law Trial – A Guide*. Go to the Superior Court of Justice website at [www.ontariocourts.ca/scj](http://www.ontariocourts.ca/scj) and search for *A Guide to Process for Cases at the Superior Court of Justice*. 
This booklet gives only general information. You should get legal advice about your own situation.

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With funding from:
Legal Aid Ontario
Department of Justice Canada

CLEO has more free publications on family law and other legal topics. We revise our publications regularly to reflect changes in the law. Our Discard List tells you which publications are out of date and should be thrown away.

To view our publications, order form, or Discard List, please visit www.cleo.on.ca. You can reach us by phone at 416-408-4420.

CLEO’s Steps to Justice website has step-by-step information about common legal problems, including family law. Visit www.stepstojustice.ca.