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 spousal support?

Spousal support is money paid by one spouse to the other after they separate or divorce.

Spousal support is almost always paid by the spouse with the higher income to the spouse with the lower income. The gender of the spouses does not matter.

Who can get spousal support?

Both married and unmarried (common-law) spouses may be able to get spousal support, or may have to pay spousal support. If the spouses are not married, they must have lived together as a couple:

- for at least 3 years, or
- for any length of time if they were in a relationship of “some permanence” and had a child together.

What is spousal support for?

The purposes of spousal support are to:

- recognize a spouse’s contributions to the relationship
- share the financial costs of caring for a child
- relieve financial hardship
• help a spouse become able to contribute to his or her own support

• correct any economic advantage or disadvantage to a spouse caused by the relationship or the relationship breakdown. For example, if a spouse gave up their job to care for the children, they may not be able to become self-supporting right away.

In most situations, spouses are expected to try to become self-supporting as soon as possible.

How do you get spousal support?

Spousal support can be negotiated and agreed on by the spouses and written into a separation agreement. This is often done along with other issues such as child support, parenting arrangements (custody and access), and property division.

Lawyers and mediators can help the spouses reach an agreement. But if the spouses cannot agree, a judge or arbitrator can decide.

There is more information about these topics in other publications in CLEO’s Family Law Series. See the back cover of this publication to find out how to order copies or view them online.
CLEO’s **Steps to Justice** website also has step-by-step information about common legal problems, including family law issues. Visit [www.stepstojustice.ca](http://www.stepstojustice.ca).

### How do judges decide on spousal support?

A judge may decide that one spouse must pay support because of their ability to pay and the other spouse’s financial need. Or the reason may be to compensate the other spouse for unpaid work that he or she did during the relationship.

If the judge decides there should be spousal support, the judge must then decide the **amount** of support and for **how long** it must be paid. The judge will take into account things such as:

- the length of the relationship,
- whether there are children and what arrangements have been made for them,
- the roles the spouses played during the relationship,
- the age of each spouse, and
- each spouse’s financial situation.

The judge may also consider the Spousal Support Advisory Guidelines (SSAGs).
What are the Spousal Support Advisory Guidelines?

The Guidelines have been used since 2008 to help people decide how much spousal support should be paid and for how long. They are only guides, but they are often used by lawyers and judges. The Guidelines cannot be used to decide if someone should get spousal support or not. That must be decided first.

The Guidelines take many things into account and are quite complicated. When all the information has been gathered and a calculation has been done, the Guidelines will give low, middle, and high ranges of support amounts to consider. This can help the spouses or a judge decide what amount is right depending on the circumstances.

Can you calculate your spousal support amount yourself?

Until recently, this was very difficult to do without the special software that lawyers and judges use. Now you can go online and use the calculator at www.mysupportcalculator.ca. But this website can do only simple calculations, and takes into account only employment income. So it is usually best to consult
Is it possible to get retroactive spousal support?

Depending on the circumstances, it is sometimes possible to get spousal support for a period of time before the application for support was made.

What if a spouse is on social assistance?

Separated spouses on social assistance must try to get any spousal support they might be entitled to. If they do not make reasonable efforts, they may get less assistance or none at all.

If they do not already have a support agreement or order, they usually are expected to get one. They must give information about the other spouse to a family support worker who can help them get a support agreement or order. They should get legal advice before signing any agreement worked out on their behalf.
They may not have to try to get support if the other spouse:

- has a history of violence toward them or their child,
- cannot be found (but they must give their worker any information they have that might help find the other spouse), or
- is not working and cannot afford to pay support.

Each month, they have to report how much spousal support they received. The amount will be deducted from their social assistance.

For more information see the CLEO publication, Child and spousal support when you are on social assistance. See the back cover to find out how to order a copy or view it online.

You can also visit www.steptojustice.ca and click on “Social assistance”, “Ontario Works”, and then “What are the rules about getting spousal support and financial assistance from Ontario Works?“.

How is spousal support paid?

Spousal support is usually paid each month, but sometimes it can be paid in a “lump sum” (all together).
How are spousal support payments taxed?

Monthly spousal support is taxable for the spouse receiving support (the “recipient”) and tax deductible for the spouse paying support (the “payor”). This is different from how child support is taxed.

But if the support is paid all at once in a lump sum it is not taxable for the recipient and the payor cannot claim it as a tax deduction.

How is spousal support enforced?

A provincial government office called the Family Responsibility Office (FRO) can enforce support payments. Separation agreements can be filed with the court and registered with the FRO. The court automatically files all support orders with the FRO.

The FRO tells the payor spouse to make all support payments to the FRO. When the FRO receives a payment, it sends a cheque to the recipient spouse, or deposits the money directly into the recipient’s bank account.

If any payments are missed, the FRO can take action to enforce the order or agreement. To do this, the FRO needs up-to-date information about the payor. This includes their full name, address, social insurance
number, place of employment or business, income, and any property they own. The recipient puts this information on a “Support Deduction Information Form” which is available at the court. This form must be given to the FRO along with the support order or agreement. It is important to update this form whenever the information changes.

Sometimes recipient spouses withdraw from the FRO because it is easier to receive payments directly from the other spouse. But if there are problems later and they want to re-file with the FRO, they usually have to pay a fee.

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

- have the payments automatically deducted from their wages or other income (for example, sales commissions, Employment Insurance, Workers’ Compensation, income tax refunds, severance pay, and pensions),
- register a charge (a lien) against their personal property or real estate, so they cannot sell it or transfer ownership without paying the amount owing,
- take money from (garnish) their bank account, or garnish up to half of a joint bank account that they have with someone else, or
- 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 spouses who do not make their support payments by:

- suspending their driver’s licence,
- reporting them to credit bureaus so that it will be difficult for them to get loans, or
- cancelling their passports.

The FRO can help you collect money from a payor who lives in Canada, the United States, or another country that Ontario has an agreement with. If Ontario does not have an agreement with the country where the payor lives, the FRO cannot help you collect support.

The FRO cannot change the amount that the order or agreement says the payor has to pay. If either spouse thinks that a change in the situation justifies a change in the support amount, they can try to make a new agreement or go to court to try to get the support order changed.
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 ........................................ 1-800-267-7263
Toronto area................................. 416-326-1818
TTY .............................................. 1-866-545-0083

How long does spousal support continue?

Some agreements or orders set a date when support payments will end or be reviewed. If no end date is set, support continues unless the agreement or order is changed.

Spousal support does not automatically end if the recipient spouse remarries or starts living with someone.

How can a support agreement be changed?

If both spouses agree, they can make a change to the agreement or make a new agreement. The changed agreement or new agreement must be dated, signed by both spouses, and signed by a witness. It should be filed with the court where the original agreement was filed and then mailed to the FRO. If it is not filed with
the court, the FRO cannot enforce the new support amount.

If the spouses cannot agree about changing the agreement, then either spouse can go to court and ask the court to make an order about support.

### How can a support order be changed?

Either spouse can ask the court that made the original order to change it. Unless the other spouse agrees, or the order said when support would be reviewed, the court will do this only if there has been a **significant** change in circumstances. For example, if:

- the payor’s or recipient’s income has gone up or down,
- the arrangements about the children have changed, or
- the judge thinks that the recipient should now be self-supporting.

### 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 14.

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 at www.legalaid.on.ca/en/getting/findingalawyer.asp.

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 low-income people 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
- Toll-free TTY ................................. 1-866-641-8867
- Toronto area ................................. 416-979-1446
  (accepts collect calls)
- Toronto area TTY ....................... 416-598-8867

Some of the services LAO offers are:

**Family Law Service Centres**

At Family Law Service Centres you can get help with documents, get a lawyer to represent you, 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.

**Summary 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.

This could pay for a lawyer to help you through the mediation process, or to help you negotiate a separation agreement.

You may also be able to get certificates for other situations such as family violence, child protection, or complex family law cases.
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 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.

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.

**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. 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.
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.

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 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 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.

Written by:
CLEO (Community Legal Education Ontario/Éducation juridique communautaire Ontario)

Produced by:
CLEO

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.

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


CLEO | May 2018