



An Introduction to Family Law in Ontario

Family law is mostly about the rights and responsibilities of married or common-law couples, parents, and children. Rights are what the law says you can get. Responsibilities are what the law says you have to do.

Some of your rights and responsibilities depend on whether you are married or living together. In Canada, same-sex couples and opposite-sex couples are treated the same.

Living together

Living together in a marriage-like relationship without getting married is often called cohabitation or living common-law. There is no formal process or document needed.

Married

To be legally married, you must go through a marriage ceremony with another person. The ceremony must be done by someone who has the legal power to marry people, such as a judge, justice of the peace, or religious official.

Separation and divorce

There is no formal process or document needed to **separate** from a common-law or married partner. Only one partner has to want to separate and live in a way that shows this.

If you are married and want a **divorce**, you have to get a divorce order from the court. Only a court can legally end a marriage.

Common family law issues

Parenting issues

Parents have to decide issues about their children like:

- where they will **live**
- **decision-making responsibility** or who will make major decisions about their health, education, and religion
- **parenting time** or how much time they will spend with each parent

Decision-making responsibility and parenting time used to be called custody and access.

Child support

In most cases, parents have to financially support their children until they turn 18 and sometimes longer. Child support is money that one parent usually pays to the other parent who has the child living with them most of the time.

The amount of support usually depends on the income of the parent paying support and the number of children they have to support. There may also be an amount for special or extraordinary expenses, such as child care or health care.

Property division

When a **married couple** separates, they usually share the increase in their money or property that happened during the marriage. They also have an equal right to continue to live in the home they were living in together. It does not matter which partner owns or rents the home.

These rules do not apply to **common-law couples**. If a common-law couple separates, each partner usually keeps their own money and property. In most cases, they only divide what they own together.

A common-law partner may be able to claim a share of the other partner's money or property, but this is not an automatic right.

Spousal support

Spousal support is money paid by one partner to the other after they separate or divorce. It is not an automatic right. A partner might have the legal right to support if they were:

- married,
- a common-law partner for at least 3 years, or
- in a relationship for some period of time and had a child together.

Domestic contracts

You and your partner can make a domestic contract, such as a **marriage contract** or a **cohabitation agreement** during your relationship. The contract can say how you will deal with property and spousal support if your relationship ends. It cannot deal with issues about children such as child support. Issues about children can only be decided after you separate.

A **separation agreement** is a type of domestic contract that you can make after you separate. It can deal with plans for your children, as well as property and spousal support. You do not have to wait until you agree on everything before making a separation agreement. You can make one on the things you agree on, while still working on your other issues.

You do not need a lawyer to make a domestic contract. But it is a good idea to have your own lawyer give you legal advice. A

lawyer can also help you make a contract that follows the rules so that a court can order you or your partner to follow it.

Resolving issues

If you and your partner cannot resolve your issues on your own, you **must** think about using an alternative dispute resolution (ADR) or a family dispute resolution process to resolve your issues out of court. Mediation and arbitration are types of ADR.

But you use ADR only if it is suitable for you. If there is a history of family violence or serious mental health or drug abuse issues, ADR might not be right for you.

Sometimes you have to go to court. Even if you start a family law court case, you can still try to resolve your issues out of court.

More information and legal help

See www.stepstojustice.ca/legal-topic/family-law and CLEO's other print family law publications for more information.

For help finding a lawyer or a mediator, see the publication **Family Law: Legal Help**. It also has information on where to get help if you cannot afford the fees.



Visit www.stepstojustice.ca/legal-topic/family-law for more information about family law and how to get legal help. This is general information for people in Ontario, Canada. It is not intended to be used as legal advice.

Si vous parlez français

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