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A Guide to Family Procedures in the Ontario Court of Justice

Revised July 2004

*This guide does not provide legal advice.
It is recommended that all parties in the
Ontario Court of Justice seek legal advice
where possible.*

Introduction to the Family Courts in Ontario

In Ontario, there are three different courts that deal with family law cases:

- Family Court,
- Superior Court of Justice, and
- Ontario Court of Justice.

It is a good idea to check with court staff to make sure that you are in the right court before you begin an application.

Family Court

The Family Court (sometimes referred to as the unified Family Court) is a branch of the Superior Court of Justice and is located in the following centres across Ontario: Barrie, Bracebridge, Brockville, Cobourg, Cornwall, Hamilton, Kingston, L'Orignal, Lindsay, London, Napanee, Newmarket, Oshawa, Ottawa, Perth, Peterborough, and St. Catharines.

The Family Court also sits regularly in Huntsville, Collingwood, Midland and Orillia.

The Family Court is the only court in Ontario that can hear **all** types of family law cases, including cases involving:

- Divorce;
- Child support;
- Spousal support;
- Support enforcement;
- Custody of, and access to, children;
- Division of family property;

- Exclusive possession of the family home;
- Trust claims and claims for unjust enrichment;
- Adoption; and
- Child protection.

Outside of Family Court locations, family law matters are dealt with in the Superior Court of Justice or the Ontario Court of Justice

Superior Court of Justice

The Superior Court of Justice can hear family law cases involving the same types of issues as those in the Family Court, except for adoption and child protection cases. These types of cases can only be heard in the Family Court or Ontario Court of Justice.

Ontario Court of Justice

The Ontario Court of Justice can hear family law cases involving the same types of issues as the Family Court, except for cases involving divorce, the division of family property, or exclusive possession of the family home. These types of cases can only be heard in the Superior Court of Justice or the Family Court.

Services at Family Courts

Family Law Information Centre (FLIC)

All court locations have a Family Law Information Centre (FLIC). A FLIC is an area in the court house where you can get free information and help about issues related to separation and divorce and other family law matters. It is a good idea to get this information before making important decisions.

Court staff can provide you with information about family law, such as brochures, pamphlets, and self-help guides.

An Advice Lawyer from Legal Aid Ontario is available at the FLIC at certain times. An Advice Lawyer:

- Can give you general legal information on family law matters free of charge; and
- In certain circumstances, may be able to give you legal advice specific to your case.

At the 17 Family Court locations, an Information and Referral Coordinator is also available to provide specific community information and referral supports.

The services of the FLIC are available to any member of the public, and may assist people whether or not a court case has been started.

Parent Information Sessions

The 17 Family Court locations sponsor parent information sessions that provide parents with information about the effects of separation and divorce on children and advice about how they can resolve

disputes in ways that focus on their children's best interests.

All parents involved in a separation, or contemplating separation, may attend these sessions. Also, judges may recommend that parties to custody and access disputes participate in them. Arrangements will be made to ensure that each parent attends a separate session.

At the Superior Court of Justice in Toronto, all parties in contested matters are required to attend a Family Information Session. Parties are not permitted to proceed to the next step in the case unless they have a certificate of attendance. Judges can make exceptions in cases of urgency, hardship or for other compelling reasons.

Staff at the FLIC can provide information about the availability of information sessions in your area.

Family Mediation

Family mediation is a way of helping people resolve issues relating to parenting, separation, and/or divorce. A trained family mediator helps people identify issues and work out their own solutions. You can try mediation before you start a court case or at any time during your court case.

Court connected family mediation services are available at the 17 Family Court locations.

Some other court locations may also offer family mediation services.

Check with the Family Law Information Centre at your local court house for more information.

An Overview of the Court Process

The Judges

The Family Court, Superior Court of Justice, and Ontario Court of Justice are courts of law. The judges who hear cases in the Family Court and in the Superior Court of Justice are Justices of the Superior Court of Justice. The judges who hear cases in the Ontario Court of Justice are Justices of the Ontario Court of Justice. Their duties are to decide cases that come before them, based on the evidence and the law. Judges must be neutral and impartial and cannot give legal advice and assistance to the parties in a case.

Parties should **not** attempt to contact judges to discuss their cases. Judges can only speak with parties at a properly scheduled proceeding. Parties should contact their lawyers, or the Advice Lawyer at the Family Law Information Centre, if they wish to bring a matter to the attention of a judge.

The Law

Much of the law of the family is set out in statutes such as the *Divorce Act*, *The Family Law Act*, *The Children's Law Reform Act* and *The Child and Family Services Act*. A considerable amount of family law is also contained in written decisions of judges, known as "case law".

Family law can be very complex. The Family Law Information Centres have a brochure available to the public, "*What you should know about Family Law in Ontario*." This brochure provides an overview of family law in Ontario, but you should get advice from a lawyer on how the law applies to your case.

Representation in Court

It is strongly recommended that people who have cases in court retain lawyers to represent them in court. If you cannot afford a lawyer, you may be able to get help from your local Legal Aid office. (See your telephone directory under *LEGAL AID*).

Clients who represent themselves are responsible for informing themselves about the law and the court's procedures. They will be held to the same standard as parties who have lawyers representing them.

The Procedural Rules

The procedural rules used for all cases in the Family Court and all family cases in the Superior Court of Justice and Ontario Court of Justice are called the *Family Law Rules*.

One of the goals of these rules is to promote the early resolution of family cases. Earlier settlements not only save parties a great deal of time and money, they also help to promote greater family harmony.

The diagram on page 5 of this guide shows the steps in a typical family case. You will see that the emphasis is on settlement before trial.

Procedural Guides

Everyone in the court must follow the procedural rules. Parties who are not familiar with the rules may obtain some assistance with court forms and procedures from staff at the Family Law Information Centres. It is important to remember staff must be neutral and impartial and cannot give legal advice.

All Family Law Information Centres have the following procedural guides available to the public on how to process matters that are not complex:

- **Applications:** A step-by-step description of what you must do to start a court case.
- **Answers:** Instructions on how to respond to a court case.
- **First Court Date and Case Conferences** (Family Court and Ontario Court of Justice only): A discussion of the “first court date” and a description of how to prepare for a case conference.
- **Case Conferences** (Superior Court of Justice only): A description of how to prepare for a case conference.
- **Motions:** A discussion of the purpose of motions as well as information on how to go about bringing a motion in court.
- **Uncontested Divorce** (Family Court and Superior Court of Justice only): A step-by-step process on how to obtain an uncontested divorce.
- **General Information Sheets:** Instructions on the following topics of general interest to family court clients: serving documents; filing documents; going to court.
- **Financial Statements:** A discussion of the purpose of a Financial Statement, instructions on which Financial Statement form to use, and tips on completing the form.

These guides provide a general overview of the process; some steps may vary in different court locations. These guides do not provide legal advice. Parties are encouraged to seek legal advice where possible.

Steps in a Case

