

Mandatory Information Program



Purpose of Program

- ◆ Help you understand the effect of a relationship breakdown on adults and children.
- ◆ Provide an overview of your options to resolve issues once you have decided to end your relationship.
- ◆ Help you make more informed decisions.
- ◆ Provide information about resources in your community.

Community Services

- ◆ May assist during a relationship breakdown.
- ◆ Examples include:
 - Family Counselling Services
 - Ontario Aboriginal Friendship Centres
 - Muslim Community Services
 - Jewish Family and Child Services
 - FLEW (Family Law Education for Women)
- ◆ Check the resource list provided with this package for services in your community.

Family Law Information Centres

- ◆ Are available in most Ontario family courts.
- ◆ Provide information about how the court works and other family law information as well as referrals to legal and non-legal services.

French Language Rights

- ◆ Parties can **exercise their right** to a bilingual proceeding by:
 - Filing or issuing their first document in French ;
 - Filing a requisition form requesting a bilingual proceeding;
 - Filing a written statement (that is separate from all other documents) with the court requesting a bilingual proceeding;
 - Making an oral statement to the court during an appearance

Finding a Bi-Lingual Family Law Lawyer

- ◆ Law Society Referral Service 1-800-268-8326, www.lsuc.on.ca/lrsr
- ◆ Association des juristes d'expression française de l'Ontario (AJEFO): lawyer directory www.ajefo.ca « Trouver un(e)avocat(e) »
- ◆ Ontario Bar Association online directory : www.oba.org/for-the-public/find-a-lawyer

Part 1

Effects of a Relationship Breakdown on Adults

Emotional Consequences of Separating

- ◆ The process of coming to terms with a separation has many stages.
- ◆ Each person moves at their own pace.
- ◆ You may experience a range of emotional responses.
- ◆ You may need help from a counselor or service in your community.
- ◆ If there has been abuse or violence in your relationship, it is important to make a safety plan.

Moving Forward

- ◆ Approach the legal aspects of your separation in a "business like" manner.
- ◆ Acknowledge the good aspects of your former relationship.
- ◆ Take care of yourself.

Factors Which Make Resolution More Difficult

- ◆ Some relationship breakdowns are more difficult than others because of complicating factors like:
 - Violence, emotional belittling or abuse.
 - Emotional distress that persists over time.
 - History of mental illness.
 - Alcohol, drugs or other substances.
 - Immigration.
 - Disability.
- ◆ There are specialized services that can help you cope.

Domestic Abuse

- ◆ Includes physical, sexual, psychological, emotional or financial abuse.
- ◆ May involve the exercise of coercive control.
- ◆ Everyone has a responsibility to keep their children safe.
- ◆ If you or your children are experiencing any form of abuse, it is important to get help.

Role of the Lawyer

- ◆ Will explain the law and your legal rights and obligations.
- ◆ Lawyers are bound by *The Rules of Professional Conduct*.
- ◆ Conversations between a lawyer and client are confidential.

Getting Legal Help

- ◆ Referrals from friends & family
- ◆ Telephone book or internet
- ◆ Legal Aid Ontario
 - Helps those who financially qualify for their services
 - Pays for the services of a private lawyer through its certificate program and also provides in court assistance through its "duty counsel" program
 - Has special services to help victims of domestic violence (1-800-668-8258)

What if you can't afford a lawyer and don't qualify for legal aid?

- ◆ Many people who do not qualify for legal aid services will have difficulty paying for a lawyer to help them.
- ◆ Some lawyers will provide "unbundled services". This will allow you to get some help for certain parts of the case from a lawyer while you represent yourself.
- ◆ There is also information available on the internet and in the community that can help you if you must represent yourself.

Part 2

Legal Issues

Legal Issues

- ◆ The legal issues vary according to each situation:
 - Whether a couple is married or not.
 - The nature and extent of property.
 - Financial issues.
 - Whether you have children.

Married Couples

- ◆ Have some rights that are different from couples who are not married.
- ◆ Need to get divorced to get remarried.
- ◆ Have the right to share property that was accumulated in the marriage.
- ◆ Have special rights with respect to the family home, also called the "matrimonial home."
- ◆ Resources:
 - Form 13B: Net Family Property Statement: <http://www.ontariocourtforms.on.ca/english/family>
 - "Separation and Divorce or Death of a Spouse: Property Division": <http://www.cleo.on.ca/en/publications/propertydiv>

Couples who live Together

- ◆ Do not have the same rights to a division of property as married couples.
- ◆ A "common law" spouse may have a claim against the property of the other spouse but it depends on a number of factors.

Spousal Support

- ◆ Both married and unmarried couples may claim spousal support.
- ◆ When making an order, the judge must consider many factors, including the length of the relationship and the effect the relationship had on employment opportunities.
- ◆ The federal government has developed Spousal Support Advisory Guidelines.

Support Enforcement

- ◆ The Family Responsibility Office (FRO) enforces support orders and separation agreements which are filed with the court office for enforcement.
- ◆ Support provisions can be in a separation agreement or court order.
- ◆ FRO can take a number of steps to enforce support.

Financial Disclosure

- ◆ You must exchange financial disclosure when there are property or support issues.
- ◆ The Family Law Rules set out the documents that you must disclose and when you must provide them to the other side.
- ◆ You must also complete a Certificate of Financial Disclosure which sets out what you have provided to the other party. The Certificate must be served on the other party with the documents and it must also be filed with the court.
- ◆ A court can order costs against you if you do not comply with these disclosure rules.

Part 3

Options for Dispute Resolution

Resolving the Issues

- ◆ You can resolve the issues between yourselves or get help from a third party.
- ◆ Not every case needs to go to court.
- ◆ Options for "Alternative Dispute Resolution" include:
 - Negotiation
 - Mediation
 - Collaborative Family Law
 - Arbitration

Negotiation

- ◆ Involves discussion and compromise to come up with solutions.
- ◆ Parties can negotiate themselves, or with the help of lawyers or mediators.
- ◆ Get legal advice before you negotiate.
- ◆ Arrangement reached can be written down in a separation agreement.

Collaborative Family Law

- ◆ Resolve disputes without going to court.
- ◆ Requires parties and lawyers sign a contract agreeing not to go to court while collaborative family law negotiations are happening.
- ◆ Parties and their lawyers engage in joint negotiations.
- ◆ Lawyers have specialized training.
- ◆ Ontario Collaborative Family Law Federation: <http://www.ocfl.ca>

Mediation

- ◆ Voluntary process that is less formal and usually less expensive than court.
- ◆ Both people must agree to participate.
- ◆ Can benefit parents and children by reaching a quicker resolution and minimizing family conflict.
- ◆ Parents may learn techniques to resolve future issues.

Arbitration

- ◆ Is a voluntary process that is similar to the court process.
- ◆ Both parties need to sign an agreement setting out the issues and how the arbitration will be conducted.
- ◆ Lawyers present the case and the arbitrator makes a decision.
- ◆ Arbitrators are usually legally trained (lawyers or retired judges).
- ◆ Arbitrator decisions can be enforced through the court provided the Arbitrator follows the arbitration award requirements.

Separation Agreements

- ◆ Can include parenting arrangements, property issues, and child and spousal support.
- ◆ Usually prepared by lawyers.
- ◆ Each party must provide full financial disclosure.
- ◆ Have your own lawyer review the agreement before signing.

Minutes of Settlement & Consent Orders

- ◆ If you and your partner reach an agreement you can write your agreement in Minutes of Settlement.
- ◆ These Minutes of Settlement can be made into a consent order.

Part 4

Using the Court to Resolve Disputes

Going to Court

- ◆ Parties may go to court when they cannot resolve their disputes using other options or when a court order is needed.
- ◆ At court, a judge will try to settle issues between you and your partner.
- ◆ May be a good option when it is not safe due to power imbalance/violence issues to use other options.
- ◆ Going to court means a judge will make a decision about the case.
- ◆ Even though a court case has been started, parties can reach an agreement at anytime.

What to Expect from the Court Process

- ◆ Starting a court case begins a process that takes time.
- ◆ Do not expect to
 - Have an immediate court appearance, unless there is an urgent matter.
 - Receive a decision from the judge without all of the information about your case being available.
 - “Ambush” the other person with surprise information.

Family Law Rules

- ◆ The *Family Law Rules* set out the procedure that parties must follow
- ◆ “A Guide to Procedures in Family Court” is available on the Ministry of the Attorney General website.
- ◆ Forms are available on line at www.ontariocourtforms.on.ca
- ◆ See resource materials for more information.

How the Court Works

- ◆ Three Ontario courts hear family law cases:
 - Family Court of the Superior Court of Justice
 - Superior Court of Justice or
 - Ontario Court of Justice
- ◆ The court has rules that you must follow

First Court Dates

- ◆ The first step in your family case may either be before:
 - First Appearance Clerk (OCJ)
 - Judge at a Case Conference (SCJ)
- ◆ The first step is an opportunity to resolve your case or move it forward

Conferences

- ◆ Conferences allow the parties an opportunity to settle and avoid trial.
- ◆ Conference include case conferences, settlement conferences and trial management conferences.
- ◆ Unless your matter is urgent, you must attend a case conference before you can bring a motion asking for a temporary order.
- ◆ Conferences are dealt with under rule 17 of the *Family Law Rules*

Motions

- ◆ Involve asking the court for a temporary order.
- ◆ Examples include:
 - Custody;
 - Access; and
 - Support.
- ◆ Except in emergency situations, you must attend a case conference before you can bring a motion.

Trials

- ◆ Held when parties cannot resolve their dispute.
- ◆ Involve witnesses and oral evidence under oath.
- ◆ Are dealt with under rule 23 of the Family Law Rules.

Motions to Change

- ◆ Allow you to change a final court order or a support agreement.
- ◆ Are dealt with under Rule 15.
- ◆ Workshops are offered in some court locations.
- ◆ In the Superior Court of Justice your first step will be a Dispute Resolution Officer Conference.

When you're in Court

- ◆ Try to leave your children at home.
- ◆ Be early.
- ◆ Bring your documents.
- ◆ Be civil and courteous.
- ◆ Stand when the judge enters and exits the courtroom and when speaking to the judge.
- ◆ Address the judge as “Your Honour”.
- ◆ Do not interrupt.
- ◆ Turn off your cell phone.

End of Session 1

- ◆ Remember to:
 - Pick-up your MIP Notice before leaving.
 - File your MIP Notice in your Continuing Record before your next court appearance.

Part 2

PARENTS ARE FOREVER: Helping Children Survive and Thrive After Separation

How to support your children

- ◆ Remember that children experience relationship breakdown differently than their parents do.
- ◆ Children’s adjustment to separation/divorce depends on how their parents deal with challenges.
- ◆ Encourage your child’s relationship with the other parent.
- ◆ Take all possible measures to reduce conflict.

Common Reactions of Children to Relationship Breakdown

- ◆ Sadness – even in violent/abusive families
 - ◆ Fear of abandonment
 - ◆ Worry/anxiety about the future
 - ◆ Fear of rejection by their parents
 - ◆ Loneliness, sometimes accompanied by longing for other parent
 - ◆ Sense of shame or embarrassment
 - ◆ Anger – feel robbed of home, family, and sense of self
 - ◆ Conflicting loyalties
 - ◆ Guilt – feeling that the separation is their fault
 - ◆ Parenting the parent
 - ◆ Relief
- To find out more about children’s reactions to separation, visit: www.phac-aspc.gc.ca/publicat/mh-sm/divorce/intro-eng.php

Talking to your children about the separation

- ◆ If possible, parents should tell the children together
- ◆ Reassure children that it is not their fault and that both parents will be involved in their lives
- ◆ Avoid blaming the other parent or discussing adult issues

Establish a Cooperative and Respectful Relationship with the Other Parent

- (1) Find an effective way to communicate information
- ◆ Where talking directly is not possible, consider email, communication books, or involvement of a professional.
 - ◆ Maintain a professional tone.
 - ◆ If direct communication is impossible, a highly structured and clear parenting plan may be required.
 - ◆ Do not communicate through the children.

Establish a Cooperative and Respectful Relationship with the Other Parent

- (2) Let the other parent know about important events in the child's life
- (3) Work with the other parent to develop consistent routines and rules

Shield Your Child from Parental Conflict

- ◆ Avoid criticizing the other parent in front of your child, even if your child complains about him or her.
- ◆ Do not ask your child to "spy".
- ◆ Do not fight with the other parent in front of your child.
- ◆ Find another outlet to deal with your anger and hurt.

Focus on your own relationship with your children

- ◆ Become involved in your child's life
- ◆ Give lots of love and affection
- ◆ Don't make the children feel guilty about spending time with the other parent or their friends

Part 3

Legal Issues Involving Children

Custody and Access

- ◆ Parents share responsibility for their children.
- ◆ When you separate, arrangements must be made between you and the other parent for the care of your children.
- ◆ The legal terms for parenting arrangements are *custody* and *access*.
- ◆ Children's best interests are served if both parents are involved.

Child Support

- ◆ All parents must support their children (biological, adopted or step).
- ◆ Judges use the Child Support Guidelines based on payor's income and number of children.
- ◆ Special expense items include daycare, medical expenses, extra-curricular activities and education, including post-secondary.
- ◆ See resource materials for more information about Child Support Guidelines.

Part 4

Parenting Plans

Parenting Plans

- ◆ Can be an informal agreement or part of a separation agreement or court order.
- ◆ Set out the responsibilities of each parent.
- ◆ Plans should be realistic and include guidelines for:
 - Parental cooperation.
 - How time will be shared.
 - How important decisions will be made.
 - How any special needs of the child will be met.

Parenting Plans (cont'd)

- ◆ Establish a time-sharing plan early-on.
- ◆ Higher conflict families should have a more detailed plans.
- ◆ Where appropriate take the child's wishes into consideration.

Custody & Access Assessments

- ◆ Can help develop a parenting plan.
- ◆ Parents can agree to participate or a court can order them to be assessed.
- ◆ Judge will take assessments seriously.

Office of the Children's Lawyer

- ◆ May become involved in custody/access cases at the request of the court
- ◆ If the Office of the Children's Lawyer (OCL) agrees to become involved, the OCL may do one of the following:
 - Provide a lawyer to represent the children in the court proceedings.
 - Provide a clinical investigator to prepare a written report with recommendations.
 - Provide a lawyer with assistance from a clinical investigator.

Conclusion

- ◆ Remember to:
 - Complete the short questionnaire included with your materials.
 - Pick-up your MIP Notice before leaving.
 - File your MIP Notice in your Continuing Record before your next court attendance.

Thank you for participating in the Ministry of the Attorney General's Mandatory Information Program (MIP). Your comments are very valuable to the Ministry to determine funding options and ways we can improve the program in the future. At your convenience, please take a moment to complete the on-line survey, which is anonymous and confidential, will take less than 5 minutes to complete:

<https://www.surveymonkey.com/r/G2TGQBV>