



A Woman's Guide to Custody, Access and Support of Dependent Children

Social Action and Advocacy Committee
of Waterloo Region

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Introduction

- Legal issues related to custody and access can be confusing. Dealing with other parents, lawyers, and the legal system can be stressful. This guide gives information about the process and some answers to questions that might arise. Not all the answers are here, but the guide also suggests services or other supports that might help.
- Throughout the guide, we refer to “the other parent.” By the other parent we mean the biological father or another person, usually but not necessarily a relative or step parent, who might have an interest in the care of your child.
- Throughout the guide, we use the word ‘he’ to refer to the other parent. However, the information applies whether the other parent is male or female.
- Throughout the guide, we use the words ‘he’ or ‘she’ to refer to the child. The information applies whether the child is male or female.
- Nothing in this guide is intended to be legal advice. It is provided only as general information. We have taken all the information in this guide from authoritative sources. The Social Action and Advocacy Committee of Waterloo Region is not responsible for any errors, omissions or misinterpretation of the information provided.

Resources Included in this Guide

- Questions and answers about custody, access and child support.
- A checklist to use when hiring and consulting with a lawyer.
- * A list of Legal Terms with their meanings explained.
- * A list of Local Resources with phone numbers and addresses.

Take Care of Yourself

- Don't panic.
- Stay positive.
- Take care of yourself.
- Get help and support.
- Use the information and resources in this guide.
- To achieve your goals you will need to be in control of yourself, and as healthy as possible.
- It is normal to experience anger, sadness, fear and stress. Stay hopeful and positive.
- Know you are not alone. Talk to other women who have been in the same situation and felt the same stresses. Their experiences may not be exactly like yours, but talking to people about your situation can help you.
- Look to family and friends, neighbours, or other places of comfort for support. Social service agencies, neighbourhood associations, or health professionals may be able to provide you with the support you need. They may also be able to connect you with other agencies or organizations.
- Talking about your situation with someone else who feels alone or afraid may also help her.
- Take care of your physical and emotional health. Get professional help if you need it.
- Showing that you are responsible and able to take care of any emotional or physical health issues can be important to your case.
- Know that you can still be an effective and positive parent regardless of your custody and access arrangements.

- If you do not have custody of your child, you may have unique support needs.
- You can still be a good parent. Focus on having positive and meaningful time with your child when he is with you.
- Explore other rewarding activities for yourself when your child is not with you.
- If you choose not to seek custody, try to reach out to others who value and respect your right to make this decision.
- By reading this guide and seeking out other resources, you will find helpful information.

Custody and Access in Case of Separation or Divorce

Written and Verbal Agreements

Why is a written agreement a good idea?

- A written agreement is evidence that an agreement was made.
- No one has to remember what was agreed because it is written down.
- It can be used to settle misunderstandings between you and your child's other parent.
- If you and your child's other parent often misunderstand one another, make your agreement as detailed as possible.
- If there is a written agreement, and changes occur in either parent's circumstances, you will have to discuss the changes and make a new agreement.
- Negotiating a formal, written agreement can reveal issues that were forgotten or not resolved earlier.

Why would I want a verbal (spoken) agreement?

- It doesn't cost too much money.
- It may work well if you and your child's other parent get along well, and trust one another.

What are the risks of a verbal agreement?

- You don't have any evidence of the agreement if you have to go to court.
- Police cannot enforce a verbal agreement. If, for example, your child's other parent verbally agrees that you can have custody of your child, but then does not return him after a visit, the police cannot help you. You might have to go to court to regain custody of, or even access to, your child.
- An informal verbal agreement is not considered a safe option for victims of abuse.

*What are Custody and Access?***What is custody?**

- Custody is a legal term that refers to the living arrangements of a dependent child.
- Custody will be determined based on the best interests of the child.
- There is a difference between de facto custody and legal custody. De facto custody means custody in-fact. That is, a parent may have responsibility for the care of the child without having a court order determining that.
- For example, say you leave your child's other parent and do not take your child with you. The other parent will have de facto custody of the child, though legal custody has not yet been determined.
- Often, de facto custody is a factor in determining

legal custody. Courts often choose not to disrupt the child's life by moving the child.

- See page 7 for more about Custody Agreements.

What is access?

- Access is a legal term that refers to the visiting rights of parents or other interested adults.
- Access is determined based on the best interests of the child.
- See page 9 for more about access.

When do questions about custody and/or access come up?

- Questions about custody and access come up whenever the best interest of the child is at issue.
- They come up when parents or guardians separate.
- They come up when issues about child support arise.
- They come up when there are changes in a family situation (for example, if one parent dies).
- And questions about custody and access come up when a child protection agency gets involved.

How will custody or access be determined?

- Often, custody and access are determined by the parent who has de facto custody and care of the child on a day-to-day basis. There may be an informal, verbal agreement that sets out this arrangement.
- There may be a written agreement. You may have a separation agreement, a mediated settlement, or a court ordered settlement.
- If the case goes to court it is the best interests of the child – and not of the parents – that are used to decide custody and access.

What is meant by the phrase “best interests of the child”?

- The best interests of the child are the things that contribute most to her overall health and well-being.
- There is a common belief that it’s in the child’s best interests to have both parents involved in her life. The court requires very strong reasons to restrict the other parent’s access to a dependent child.

I have a mental or physical health issue. What should I do?

- Be honest and certain about whether your health problems affect your ability to parent.
- The safety of your child is the most important thing to any court. If the court believes that your condition or your behaviour endangers your child, then your health may be an issue.
- Discuss your health issue openly with your lawyer.
- Talk about the steps you have taken to help yourself.
- Talk about your ability to complete treatment.
- Talk about your ability to make use of the supports available to you.
- Do not offer details about your condition freely to other people. Let your lawyer manage the information.

How can I help my case for custody and/or access of my child before I leave?

- If you or your child are in danger, find a safe place immediately.

- If you have time, start the process before you leave the shared home.
- Make plans, get information and contact a lawyer who has experience in family law matters. A lawyer can help you decide what to do next.
- Try to keep your child with you during any separation.
- Maintain your relationship with your child. Understand the emotional pain that your child may be feeling.
- Do not use your child as a prize to be won in a fight with her other parent.
- Do not involve your child in arguments with or about her other parent.
- Remember that the health and wellbeing of your child is the most important thing.

Rights of Parents and Children

Who has rights to my child?

- The law recognizes that both parents have an equal right to custody of their child.
- Other concerned adults may also have rights in limited situations.
- The government also has a duty to ensure the safety of your child.
- Child protection agencies may apply for the right to take over the responsibility for making all parenting decisions when there are allegations of child abuse or neglect.

Can I take my child with me when I leave?

- Both parents have an equal right to custody of their child.

- You should tell your child's other parent where the child is, if it is safe to do so.
- Allow the child's other parent access if it is safe to do so.
- If you are worried that it is not safe for your child's other parent to have custody of or access to her, then you should seek an immediate court order determining that.
- A lawyer, the police, or a child protection agency can help if you are concerned about your child's safety.
- The court makes decisions on a case-by-case basis. If the decision is in favour of your partner, he must take on all the responsibilities of a parent. This includes the possibility of paying child support.

At what age can my child decide where he wants to live?

- There is no set age at which your child can decide where to live. A child can choose to leave his parents' care at age 16.
- The child will probably be given the opportunity to express a preference in a custody case. A judge may order a lawyer to be appointed for the child from The Office of the Children's Lawyer. However, this does not mean the child will be allowed to choose where to live. The judge makes the final decision.
- It is unlikely that a decision will go against the child's wishes if the child is over the age of 12.

If I am pregnant, do I have to tell the unborn child's other parent?

- The law recognizes the rights of both biological parents to have access to the child.

Can I get custody of or access to a child before it is born?

- No. You must wait until the child is born.

My child's biological father has never lived with us. Does he still have rights?

- Yes. Your child's biological father has parental rights and obligations unless those have been altered by a court order or agreement.

Does my partner have the right to apply for custody and/or access even though he is not my child's biological parent?

- Yes, in some cases.
- If your partner has acted as a parent to your child, and can demonstrate the intention to continue to do so, the court may consider him to be your child's other parent.

Custody Agreements

Custody agreements should be in writing.

What might a custody or access agreement say?

- Custody or access agreements say such things as where the child will live.
- They say how decisions will be made about the child.
- They say how much time a parent or person will spend with the child.
- They outline the role each parent or guardian will play in caring for the child.
- And they provide details regarding other aspects of the child's care that need to be determined.

Is one parent more likely than the other to get custody of the child?

- The law acknowledges that both parents have an equal right to custody of their child.
- Parents with de facto custody often have an advantage. Courts try not to disrupt the life of the child.

What might the court consider when making decisions about the custody of the child?

- Courts consider the blood relationship of the child to the interested parties.
- They consider the permanence and stability of the family unit where the child may live.
- They consider how much the interested parties have been responsible for the child's care.
- Courts consider how able interested parties are to provide guidance, education, the necessities of life, and to support any special needs of the child.
- They consider the love and affection the child shows toward any of the interested parties.
- Courts consider what will least disrupt the child's life.
- Courts consider the proposed plans of care for the child.
- They consider any health issues of the parents.
- They consider any evidence of child abuse or neglect.
- And they consider any evidence of criminal behaviour.

Do I have to go to court to get a custody agreement?

- Custody arrangements can be made through a legal agreement, like a separation agreement, without going to court.

- If you and your child's other parent cannot reach a custody agreement, mediation may help resolve some of the problems. This is not a good option if there is a history of violence or if you have trouble getting along.
- If you and your child's other parent cannot reach an agreement, it may be necessary to go to court.
- If you have verbal arrangements, you should get them written down. Verbal agreements are not as safe as written agreements.

What are the different types of custody agreements?

Sole custody

- Sole custody is where the child lives with one parent – the custodial parent.
- This parent has the legal right and responsibility to make all decisions about the child and his care.
- The non-custodial parent may have access to the child.

Joint custody

- Joint custody is where both parents share the legal right and responsibility to care for, and make decisions about, the child.
- A decision is made about the child's primary residence. This will be the home where the child spends the majority of her time.
- Both parents normally have regular access.
- The parent in the primary residence will make emergency decisions.
- The parent in the primary residence should not take the child out of the area without notice and permission of the other parent or a court order.

- This type of custody may not work well in some situations, for example, where there is violence or the parents have a lot of difficulty agreeing with one another.

Temporary or interim custody

- Temporary or interim custody is a temporary arrangement, ordered by the court, until a permanent agreement is reached.
- Judges do not like to disrupt the lives of children, so the parent with interim custody is often more likely to receive permanent custody.

Shared custody

- Shared custody is where the child has two homes and splits her living time between the parents.

The court talks about residency. What does it mean?

- Residency means the home where the child lives or spends the majority of his time.

Access

What is access?

- Access is the other parent's right to spend time with the child.
 - It is the child's right to spend time with her parent.
 - It is the right of the parent to ask for and be given information about the child's health, education, and welfare.

What are the different types of access?

Reasonable access

- Reasonable access is an agreement between the parents to be flexible and to work out the details of access on a day-to-day basis.
- This can be a separate agreement, part of the separation agreement, or by court order.
- This arrangement works best when the parents trust one another, can talk to one another, and generally get along with one another.
- This kind of arrangement is not recommended in situations of abuse.
- You should not argue with your child's other parent in front of your child or let your child know that you are fighting over access.

Fixed or limited access

- Fixed or limited access is an agreement in writing that outlines the details of access visits (time, time, holiday arrangements, place, transportation, and supervision requirements, for example).

Supervised access

- Usually, supervised access is ordered by the court in situations where there has been violence in the home. The court may allow access in situations where there is violence between the parents but the child has not been involved.
- Supervised access takes place in a supervised setting. This happens when it is not safe, or in the child's best interest, for a parent or guardian to be alone with the child.
- The court may order the supervisor to be a relative, a friend, a worker at a supervised access centre, or a child protection worker.

Do I have to allow access to the child before a court order is in place?

- Allow your child's other parent access to the child, if it is safe for the child.
- If you fear for your child's safety, seek an immediate court order to deny access or to set up supervised access.
- A lawyer, the police, or a child protection agency can help with supervised access.
- A lawyer will be able to help you decide the best way to continue.

Can a parent be refused access?

- Yes. A judge may deny a parent access.
- A denial of access can be either temporary or permanent, based on the best interest of the child.
- A parent may still be required to pay child support, even if he or she does not visit or have access to the child.
- You can deny access without a court order only if you fear for the safety of your child. If you fear for the safety of your child, you should contact a child protection agency or the police. Go to court with the evidence of the danger to your child and ask for a restraining order.

I'm worried about my safety when my child is picked up or returned from access visits. What can I do?

- Arrange for pick ups and returns to occur in a public place or have someone with you when the exchange occurs.
- Find someone who is willing to drop off and pick up your child, so you do not need to be involved in the exchange at all.

- Most supervised access centres also provide supervised exchange services.
- Keep records.
- Write down things that concern you when they happen.
- Keep track of the time and date and the reaction of your child.
- Keep these records in a safe and protected place. They will be important if you decide to go to court or to call the child protection agency.

My child does not want to go on her access visits. Do I have to send her?

- Yes. It is your responsibility to support and encourage access visits.
- If you do not allow access visits, the courts could become involved.
- If your child is old enough, encourage her to talk directly to her other parent about why she does not want to go on her access visits.
- Keep notes of the things your child tells you, and about her concerns.
- If you are concerned about your child's safety, talk to a lawyer or child protection agency. You can also apply for a change in the access arrangements.

I've noticed my child's other parent is buying my child lots of new and expensive things during access visits. What should I do?

- You can't prevent it. The important thing is not to get into a competition with your child's other parent. Discuss your concerns with your child's other parent, if possible.

- Express the value of non-material gifts, like love and care, to your child regularly. It is your responsibility to take care of your child so that he is healthy and safe.

Separation Agreements

You and your child's other parent can make a separation agreement to resolve custody and access issues. You can do this without going to court.

What is a separation agreement?

- A separation agreement is a contract between you and your child's other parent. It states the rights and responsibilities of both parents. Both parties are required, by law, to follow it.
- Separation agreements can include details of custody, access and child support obligations.
- Separation agreements are good for parents who can co-operate with one another reasonably.
- Separation agreements can be easier on parents and children than going to court.
- Separation agreements tend to be less expensive than divorce, because they don't require court involvement.
- If either you or your child's other parent does not follow the terms of the separation agreement, the contract can be enforced by applying to the court.

Do I need a lawyer to write a separation agreement?

- You can write your own separation agreement. It does not need to be written by a lawyer but you should consult one before signing the agreement to make sure that your rights are protected.
- The agreement should be in writing and signed in front of an independent adult witness.

- The Family Law and Information Centre (see page 16) may be able to help you with your agreement.
- Legal Aid Ontario will not cover the cost of lawyer to work out a separation agreement, but they will answer questions, so call them for information (see page 18).

Mediation

What is mediation?

- Mediation is an alternative to going to court when you have disagreements.
- Mediation uses a third person to help you and your child's other parent reach an agreement. This person is called the mediator.
- Mediation is not legally binding. The police and the courts will not enforce it.
- You can try other alternatives if a mediated agreement does not work.
- Mediation is not recommended if you and your child's other parent do not cooperate very well with one another, or you do not trust one another.
- Mediation is not considered a safe or effective option for victims of abuse.

Why would I choose mediation?

- A mediated agreement can be very flexible and be made to fit you.
- Mediation is not as confrontational as a court room setting.
- Mediation is done in private.
- Mediation can be less expensive than going to court.
- Mediation can be quicker than going to court.

- Mediation may be easier than going to court.
- Legal Aid Ontario may provide certificates for mediation services.

Why would I not want to choose mediation?

- If there is a history or threat of violence in your relationship with your child's other parent, you should not choose mediation.
- If you feel pressured into accepting mediation, you should not choose it.
- If you are not comfortable with the mediator or you feel that the mediator favours your child's other parent, you should not choose it.
- If you and your child's other parent have trouble cooperating with each other and making compromises, mediation is not the right choice for you.

How do I find a mediator?

- There are professional mediators and mediation services. You can find them in the telephone book or on the internet.
- Other professional people, like religious officials, often provide mediation services. Speak to people you trust about who would be a good choice. Make sure you get information about possible mediators' qualifications and training.
- Ask someone you know who has been through mediation about her experiences.
- You can interview and choose mediators just as you would interview and choose a lawyer.
- When choosing a mediator, be sure to choose one you feel is fair.

Will Legal Aid Ontario cover the costs of mediation?

- Sometimes Legal Aid Ontario covers the costs of mediation. Call or visit your local Legal Aid Ontario office to inquire.

Do I need a lawyer present when I speak to a mediator?

- No. However, you should speak to a lawyer before you see a mediator, so that you are aware of your rights and responsibilities, and the law.
- If an agreement is reached in mediation, make sure to show a copy of the agreement to your lawyer before you sign it.

Do the courts ever appoint mediators?

- Yes. However, mediation is voluntary, and both parties must agree that they want to try working with a mediator.
- The court can only appoint a mediator if you both agree to try mediation, and if you both agree on the same mediator.

Child Support

What is child support?

- All parents must, according to law, financially support their children to the extent that they are able.
- The parent with primary custody of the child (the custodial parent) provides for the everyday expenses and care of the child.
- However, the other parent is also expected to help out financially. Generally, the non-custodial parent will pay the custodial parent a certain amount

each month. This is called child support.

- Child support payment amounts are based solely on the supporting parent's gross income.
- Support payment obligations can be enforced by The Family Responsibility Office (see page 15).

When should I apply for child support?

- A custodial parent can apply for child support at any time.
- Usually, a parent applies for child support at the same time she applies for custody. If for some reason it was not done at an earlier time, the parent can go back to court at a later date and apply for child support.

How is the amount of child support determined?

- The amount of child support is usually determined by using a table issued by the government of Canada, called the Child Support Guidelines.
- The amount is based on the non-custodial parent's income and the number of children he needs to support.

I am on social assistance. Do support payments change how much assistance I can receive?

- The amount of child support you receive from your child's other parent will be deducted, dollar for dollar, from your social assistance payments.
- The social assistance provider expects you to seek child support from your child's other parent unless there are unusual circumstances preventing it (a significant safety concern, a sexual assault situation, or the other parent's location is unknown, for example).

- If you do not try to get support, this may affect your eligibility for social assistance or how much you receive.

What if my child's other parent is on social assistance?

- Parents on social assistance are generally not required to pay child support, but may voluntarily offer what they can.

I think my child's other parent is not reporting all of his earnings. What can I do?

- Contact a lawyer. The lawyer will help you gather any evidence there is to support your case.
- You may have to go to court. You and your child's other parent will present evidence to a judge. The judge will review the evidence, and make a decision. The judge may change the child support court order.

Do I have a right to any money over and above child support?

- Yes. Some other expenses should be shared, such as daycare costs, medical and dental costs, any costs relating to your child's disability, or his college, university, or trade school tuition.
- In theory, these costs will be shared in proportion to each income. If both parents make the same amount of money, these costs are split equally. If one parent makes more money than the other, that parent pays more.

How long does child support continue?

- Generally, as long as the child is in full-time attendance at school, child support continues. This may mean until the child is finished a first diploma or degree at college or university.
- Child support continues until the child is 18 if he is living at home but is not going to school.
- Child support may continue beyond the child's 18th birthday if he has a disability or illness and so cannot financially support himself.

Can a support agreement or order be changed?

- If both parties agree, a support agreement can be changed.
- A court can change a support order.

How do I make changes in my support agreement?

- Put any changes into writing and have them reviewed by a lawyer and signed in front of a witness.

When can a support order be changed?

- A support order can be changed when there is a change in the non-custodial parent's income.
- If the wages of the non-custodial parent go up, the support payment should also increase.
- If the wages of the non-custodial parent go down, he can seek a reduction in his child support payment.
- If you are involved with The Family Responsibility Office, make sure they are informed of any changes in your support payment arrangements.

How will I know if I should ask for a change in the support order?

- Include in your agreement a demand that the child's other parent give you a copy of his income tax return each year, and a copy of his Notice of Assessment by June 30th of each year. (It's important to write this request and keep a copy for yourself.)
- Even if it is not a part of your agreement, you have a right to request this information of the child's other parent. Write to him demanding a copy of his Notice of Assessment by June 30th of each year. Keep a copy of the letter. The best thing is to have this as part of the court order or separation agreement.
- If the child's other parent refuses to provide that information, and you need to go to court, you can ask that he be ordered to pay the court costs.

Can I keep my child from seeing her other parent because he doesn't pay his child support?

- No. Support payments and access are not connected to one another. Your child has a right to see her other parent. His failure to pay support does not change your child's right to access to him.
- There are other ways to address non-payment of support.
- Seek legal advice.
- The Family Responsibility Office may also be able to help.

What are the consequences of not paying child support?

- There are several possible consequences if a non-custodial parent doesn't pay his child support, which include paying a fine, serving jail time, having his driver's license suspended, and having his wages garnished.
- Child support is not absolved in a bankruptcy. In other words, if your child's other parent declares bankruptcy, all his other debts may be erased, but his child support obligations remain.

What is the Family Responsibility Office?

- The Family Responsibility Office (the FRO) has a legal authority to collect court-ordered support payments. Then the FRO forwards the payments to the custodial parent.
- The FRO gets a copy of every support order issued by an Ontario court, when the decision to use the FRO has been made. The FRO can help enforce support agreements.
- You can call the FRO at 1-800-267-4330, or 1-416-243-1909. Their website address is www.thefro.ca.

Do I have to use the services of the FRO?

- No, you don't have to use the services of the FRO.

When might I want to use the FRO?

- You would use the services of the FRO if you had concerns about whether your child's other parent would make his child support payments.

What does the FRO need from me?

- The FRO needs a copy of the court order from the judge, sent from the courthouse.

- It needs a completed filing package.
- The filing package contains forms to be filled out and returned to the FRO.

How do I get a filing package from the FRO?

- Most courthouses have the FRO filing packages.

How soon can I get my payment from the FRO?

- It can take three to five days after the FRO receives the payment, depending on your chosen method to receive a payment.

Does the FRO have any connection to custody issues?

- No, the FRO has nothing to do with custody matters.

The Law, Lawyers and Legal Aid

Do I really need a lawyer?

- Whether you need a lawyer depends on what you're trying to do.
- You may be able to do a lot of the work yourself by using duty counsel or the Family Law Information Centre.
- If you are trying to work out custody or access arrangement, a separation agreement or a divorce, you may be better off with a lawyer.
- If you can't afford one and Legal Aid Ontario will not cover your expenses, you can try duty counsel at the court house.
- Some lawyers specialize in a process called collaborative law. In this process, both parties and their lawyers meet to work out the issues, without going to court. This may be less expensive than the court process, but it still means employing a lawyer.

- You can choose to represent yourself. However, this can be risky. The law is complicated and the process is difficult. It can be intimidating. A lawyer has the training and the experience to cope with it.
- If you choose not to have a lawyer and you go to court, you will need to understand the process and the expectations of the court.
- You must be able to prepare, read, and respond to all the necessary paperwork.
- You must be prepared to remain calm when speaking in public about your personal business.
- If you chose to represent yourself, you should at least discuss your plans with a lawyer. They will give you information and tips that will help you during the court process.
- It is likely that your child's other parent will have a lawyer.

What is duty counsel?

- You may be able to get enough assistance from duty counsel. Duty counsel lawyers are at court to assist clients who do not have lawyers.
- In family court, duty counsel can give advice, prepare and review documents, represent clients in some motions and hearings, and may assist with settlement negotiations.
- Duty counsel will ask you to fill out a form about your finances. If you don't qualify for legal aid, you may still get some limited services.
- Duty counsel will not argue your case at trial or help you negotiate a settlements. Duty counsel is there to help you, not to represent you.

- Anyone at the court house can direct you to duty counsel on the date of your hearing.

What is the Family Law Information Centre?

- The Family Law Information Centre (FLIC) offers basic legal advice, an explanation of how to file and serve court papers, and a review of your court papers to ensure that you have filled them out correctly.
- FLIC is located in the courthouse of most regions throughout Ontario.
- FLIC offices may not always be open. Call your local courthouse for FLIC's hours of operation. FLIC does not take appointments. People are seen on a first come, first served basis.

What do I need to know when looking for a lawyer?

- Custody and access are issues in family law. Not all lawyers deal with family law.
- The cheapest lawyer may not be the best lawyer to choose. However, you may not need the most expensive lawyer either.
- Some lawyers have payment options that can help make their fees more manageable.
- Some lawyers offer a short free consultation.
- The Lawyer Service offers a short free consultation, however there is a \$6 fee for using the Lawyer Referral Service.
- You can ask a lawyer about rates before you make an appointment. If you make an appointment, you can ask the lawyer to estimate how much your total cost will be. Some lawyers expect that you pay them a certain amount called a retainer before they will start working on your case.

How do I find a lawyer?

Do some reading.

- Pamphlets and other written information are available at the courthouse or community Legal Aid Ontario office.
- The local listings in the telephone directory will often advertise a law firm's services in family law.
- Libraries and the internet have information.
- CLEO (Community Legal Education Ontario) is also an excellent source of up-to-date legal information. You can call CLEO at 1-888-590-2536. Their website address is www.cleo.on.ca.

Talk to people you trust.

- Friends, family members, social service agencies, etc. may be able to give you information, or answer some of your questions.
- Sometimes people who have had personal experience dealing with custody or access issues can help. Knowing the mistakes other people have made might help you avoid similar problems.
- Always be sure to double-check any information you receive.

Contact the Lawyer Referral Service.

- This service will help you link with a qualified lawyer. Be sure to ask for a lawyer who does family law
- You can call the Lawyer Referral Service at 1-900-565-4577. There is a \$6 phone charge for the call.
- You will be given a six digit referral number for a short free legal consultation.

- During that consultation, a lawyer will tell you how the law applies to your situation, how to use the law to solve your problem, how long the legal work may take, and how much a lawyer might cost.
- You do not have to continue working with the lawyer you speak with during your free consultation.

If you are in a women's shelter, you can get information from the shelter.

- The shelter can identify lawyers who are sensitive and knowledgeable about women's issues.
- The shelter may provide forms for a short free legal consultation.
- The shelter may offer outreach support to women who are seeing a lawyer or attending court.

What if I cannot afford a lawyer?

- You may qualify for financial assistance with your legal costs.
- Contact your local Legal Aid Ontario office for help. The Legal Aid Ontario office can give you a list of lawyers who accept legal aid certificates. Not all lawyers accept legal aid certificates.
- Find the phone number in the phone book, or from your local community information centre, or check the Legal Aid Ontario website at <http://www.lao.on.ca>.

If I qualify for legal aid, what help can they offer?

- Call your local Legal Aid Ontario office and ask if your situation can be covered.
- Legal aid can only be used in family law if the child's other parent has already been served with custody papers and is disputing the settlement.

- Legal aid is available only for custody and support matters. It is not available for other things like separation agreements or divorce proceedings.
- For more detailed information, contact your local Legal Aid Ontario office or access their website at <http://www.lao.on.ca>.

How can I apply for legal aid?

- Find out when your local Legal Aid Ontario office is open and go there to make an application.
- If you are eligible for legal aid, you will receive a legal aid certificate to help you pay for the services of a lawyer.
- Legal Aid Ontario tells you which lawyers will accept these certificates. Not all lawyers do.
- If you are using a legal aid certificate you cannot change lawyers except in very limited circumstances.

What do I need to take to a Legal Aid Ontario appointment?

- Bring as much information as you can locate.
- Important information will include your identification and social insurance number, proof of your income (recent pay stubs, social assistance stubs, statements showing your investment income), up to date banking information (recent account statements), evidence of your monthly expenses (rent or mortgage payments, hydro and gas bills, car payments, credit card statements), the deed to your home, if you own it, and court documents relating to your case.

What if I do not qualify for legal aid?

- Look for a lawyer who will accept payments that are manageable for you.
- Do as much of the work as you can with the help of duty counsel and FLIC.

Where can I find an interpreter to go to the lawyer's office with me?

- Interpreters usually charge a fee.
- Qualified interpreters are generally available through your local multicultural centre or new Canadian reception centre.
- Sometimes, the local court house has a list of qualified interpreters.
- Find a trusted friend, or adult relative, or a community leader, who can either interpret for you, or can help you find an interpreter.
- Do not use your child as an interpreter except when you have no other options. You will need to be as open and honest as you can when you speak with your lawyer, and it would not be appropriate for your child to hear all of the things you need to discuss.

What are some suggestions when working with a lawyer?

- Ask questions. If you do not understand the information, keep asking until you do. It is very important to understand what the lawyer is doing, and how it will impact you and your case.
- You should be able to trust and feel comfortable with your lawyer. If you don't, find another one.
- If you are using a legal aid certificate, you will not be allowed to change lawyers except in very unusual circumstances.

- Your lawyer needs to understand your specific situation in order to help. She will ask lots of questions. Answer those questions honestly, giving as much detail as possible.
- Tell your lawyer the truth. Your lawyer cannot do the best job without complete and accurate information.
- Discussions with your lawyer are confidential. Remember, your lawyer is your advocate. Your lawyer has to protect your interests within the law.
- Be aware that you won't always like what your lawyer tells you. Your lawyer's job is to tell you the law, and how you can get the best outcome from your case within the law.
- Follow your lawyer's advice. The lawyer is an expert in law and the legal process.
- Come to meetings with your lawyer well-prepared.
- Don't miss appointments with your lawyer unless you cancel ahead of time.
- Never use the same lawyer as your child's other parent.

How can I help my case?

- Remember that the court will make a decision based on the best interests of your child.
- Keep detailed notes. Write down anything that could relate to the custody and access of your child and potentially help with your case.
- Record dates and times of meetings, and what was said there. Try to write this down as soon after the meeting as possible. You don't want to forget an important piece of information.
- Keep your temper.

My partner already has a lawyer. Can we use the same one?

- Never use the same lawyer as your child's other parent.
- A lawyer must advocate for her client. Your wants and needs may be different from your child's other parent's, so one lawyer cannot advocate properly for both of you.

Finding Your Way Around the Court House

What will happen at court?

- The judge will hear arguments from the lawyers on both sides about the care of your child.
- Other people may provide testimony to the court.
- The judge will use the testimony and the arguments to make a decision about the best interests of your child.

Do I need a lawyer?

- Whether you need a lawyer depends on the complexity of your case and your ability to represent yourself. You aren't required to use a lawyer, but it may be the best thing.

Duty counsel and FLIC

- You may be able to get enough assistance from duty counsel. Duty counsel lawyers are at court to assist clients who do not have a lawyer.
- In family courts, duty counsel can give advice, prepare and review documents, represent clients in some motions and hearings, and may assist with settlement negotiations.

- Some court houses have a FLIC service which will help you fill out forms.
- You can choose to represent yourself, however this can be risky.

What do I need to know to represent myself?

- You need to know that the law is complicated and the process is difficult. It can be intimidating.
- You need to understand the process and the expectations of the court.
- You need to be able to prepare, read, and respond to all the paperwork.
- You need to be able to remain calm when speaking in public about your personal business.
- You should at least consult with a lawyer to discuss your plans. She may be able to give you some information and tips that may help you during the court process.

What if I choose to hire a lawyer?

- See How do I find a lawyer? on page 17.

How can I find duty counsel?

- Duty counsel can be found at the courthouse.

How should I act in front of a judge?

- Always remain respectful.
- Avoid public displays of anger, disappointment, or frustration.
- Don't speak out of turn. Let your lawyer speak for you.
- Dress appropriately.
- Don't chew gum or bring food to the courtroom.
- Take notes.

Why does it take so long to go to court?

- Each side is allowed to time to discover information and to prepare its case. This can take time. Also, there are a lot of cases and a limited number of judges. Even if you are ready, you will have to wait your turn on the court docket.

Why do the judges' decisions differ so much?

- Each case is different. Even if two cases looks similar, family histories will be different as well as the personalities of the people involved. Decisions in family court cases take these differences into consideration.
- Because situations are so different, the law is written in very general language. Judges do not all think alike. One judge may understand the law in one way, while another sees the law in a slightly different way. As long as the judge's opinion is within the law, those differences of opinion are allowed.
- The judge will have to interpret the law as it applies to your particular situation.

When does the Office of the Children's Lawyer provide legal representation for the child?

- The Office of the Children's Lawyer may become involve if the judge believes your child needs his own representation.
- If your child is represented by the Office of the Children's Lawyer, this service is free to you and your child.
- Your child can be represented by a private lawyer, however private lawyer's services are not free.

This is all so frightening. What can I do?

- Don't panic.
- Stay positive.
- Take care of yourself.
- Get help and support.
- Use the information and resources in this guide.

Custody and Access When a Child Protection Agency Is Involved

(The Social Action and Advocacy Committee of Waterloo Region acknowledges the assistance of Family and Children Services of Waterloo Region.)

What is a child protection agency?

- In Ontario, the child protection agencies are called Family and Children's Services (F&CS) or the Children's Aid Society (CAS).
- These local organizations make sure that children are safe with their caregivers.
- Most communities have only one child protection agency.
- There are some specialty agencies. In Ontario there are three Catholic Children's Aid Societies, one Jewish Child and Family Services agency, and several Native Child and Family Services agencies.

What do child protection agencies do?

- Child protection agencies provide services to protect children under the age of 16 from abuse and neglect.
- They investigate allegations of child abuse and neglect, and determine an appropriate course of action.
- * They may take charge of newborn infants who are alleged to be in need of protection.
- They provide care and protection to children under their care or supervision.
- And they provide guidance, counselling, and other services to families, to protect children, or to prevent circumstances that could lead to the need for protection.

What is a child in need of protection?

- In general, a child is said to be in need of protection when she suffers or faces a substantial risk of physical, sexual or severe emotional harm.
- A child is in need of protection when she requires medical treatment that is not being provided.
- A child is in need of protection when she suffers from a condition that could seriously impair her development, and is not being provided with necessary treatment.
- A child is in need of protection when she has no available parent or parent-substitute.
- A child is in need of protection when she is under the age of twelve and has engaged in serious criminal behaviour.
- A child is in need of protection when her parents or guardians are unable to care for her.
- And a child is in need of protection when she lives in a home where there is domestic violence of any kind.

What is child abuse?

- The four kinds of child abuse are neglect, physical abuse, sexual abuse, and emotional abuse.
- Neglect is not providing adequate food, clothing or shelter, not meeting the child's basic physical needs, inflicting emotional neglect, lack of supervision, not getting the child medical or dental care, deliberately locking the child out of the home, deliberately locking the child in her room, or not providing psychological or developmental treatment when required.
- Physical abuse is hurting the child to control her

behaviour, using deliberate physical punishment resulting in injuries, not caring for or supervising the child enough so that physical injury occurs, or shaking an infant or toddler so that injury results.

- Sexual abuse is coercing the child into sexual gratification or exploitation, touching the child in a sexual way, encouraging or forcing the child to participate in any sexual activity, encouraging or forcing the child to touch another person in a sexual way, or telling the child to touch herself for an adult's or older child's sexual purposes.
- Emotional abuse is attacking the child's self-worth and emotional development, and can include criticizing, teasing, belittling, insulting, rejecting, ignoring, isolating, and shunning.

How does a child protection agency become involved?

- Sometimes calls come directly from the child.
- Some calls come from neighbours, family or other community members.
- Professionals such as teachers or health care workers or police officers or social workers are required by law to call a child protection agency if they believe a child is at risk or in need of protection.

What does a child protection agency do when they receive a report or referral?

- When a child protection agency receives a report, it assigns a child protection worker to the case to determine if there is evidence of abuse or neglect.
- Based on the child protection worker's investigation, the agency will decide if they need to become involved with the family or not.

- Involvement can take many forms and be either short or long-term.

What if a report of child abuse is false?

- Child protection agencies are aware that some of the complaints they receive are false, or not accurate.
- Child protection workers determine whether or not the reported information warrants an investigation or ongoing agency involvement.
- It is best to co-operate with the child protection worker so that the situation can be resolved.
- Even when the child protection worker does not continue to work with you and your family, your case will stay on file with the child protection agency.

What process does a child protection agency generally follow?

- The process occurs whether the family chooses to co-operate or not.
- Information about suspected child abuse or neglect comes in to the child protection agency. This is called a referral.
- The child protection agency assigns a child protection worker to the case, who determines whether an investigation is needed.
- The child protection worker conducts interviews with the people involved, and determines whether further action is necessary.
- If the child protection worker believes that the allegations are accurate, the child protection agency will work with the family to reach a voluntary service agreement.

- Sometimes the child protection agency decides that the child needs to be removed from the home.
- The decision to remove the child from the home may occur immediately, or at a later time.
- The child may be taken away for short or longer periods of time.
- Child protection agencies are not required to have a warrant to remove a child, but if they do not obtain a warrant before a child's removal, they must take the case to family court within five days.

What happens in a child protection interview?

- There is usually a standard set of questions that the child protection worker must ask in a series of interviews, and things that she must look for.
- The child involved will be interviewed separately from parents or other brothers and sisters.
- The child protection agency tries to minimize any personal bias that may exist between the child protection worker and the family.
- The child protection agency makes any decisions about the future of the child based on the results of these interviews.

Who will be interviewed by the child protection agency?

- The child protection worker will interview the child and any brothers and sisters, separately from the parents.
- The child protection worker will interview the suspected offender, the child's parents and other family members, and other non-family members who may have information.
- A medical examination will be arranged if necessary.

- If sexual or physical abuse is involved, the police have to be contacted.

How long does an investigation last?

- Most investigations are completed within 30 days, although some may take up to 60 days.

What is a service agreement?

- A service agreement is a plan made between the parents, the child if he is over age 12, and the child protection agency.
- A service agreement may include a list of the things in the home or in the care of the child that need to change.
- It may identify the services that are needed.
- It will state the date when the agreement will be re-evaluated.
- The child protection agency will try to reach a voluntary service agreement with the family.
- If a voluntary agreement cannot be reached, the child protection agency may apply to the court for a court-ordered agreement, which can be temporary or permanent.

Do I have to talk to a child protection agency?

- No. However refusing to talk to the child protection worker won't stop the investigation from occurring. Often, a more co-operative approach is better.
- Do not be intimidated or afraid to get help.
- If you choose to seek legal advice, look at the checklist at the back of this booklet. It may be helpful to you when trying to choose a lawyer.

Does a child protection agency have the right to keep me from seeing my child?

- Yes. The child protection agency does not have to go to court to keep you from your child for a short time.
- However, to keep you from your child for a longer period of time, the child protection agency must go to court. They must prove that the separation is in the best interests of your child.
- The situation may not be permanent. If you can resolve the concerns of the court about your care of your child, the order should be revised or reversed.

If a child protection agency becomes involved, do they always take the child away?

- No. This is generally considered a last option.
- If the child is taken from the family home, the child protection agency hopes to return the child as quickly as possible.
- Child protection workers will work with you to make, and put in place, a plan to resolve any problems.
- Normally, your child will stay with you while these changes are made, as long as the child protection worker believes your child will remain safe.
- Child protection workers may suggest you take parenting courses or counselling.

Who decides if my child is in need of protection?

- The child protection agency can decide to take emergency action for the short term.
- The Ontario Court will decide about the longer term.

- The judge must clearly know that all other alternatives have been tried and have not succeeded, or that you are not capable of caring for your child.
- The judge will then determine if it is possible to place your child with a relative, or with a member of his community, so that your child's life is not too disrupted.
- The judge considers your child's best interests, previous efforts to help him, and the detailed plan for his care.

What can I do to help my case with a child protection agency?

- Keep your temper.
- Co-operate.
- Ask questions.
- Know your rights.
- Write things down.
- See a lawyer who takes child protection cases. (See How do I find a lawyer? on page 17).
- Remember that child protection workers are working on behalf of your child.

Who do I talk to at the child protection agency? Different people seem to do different things.

- There will be several people working on your case. One child protection worker does the investigation, another talks with the family on an on-going basis, and sometimes a third child protection worker works with the child.
- Get business cards from each person you talk to.
- Make notes on the back of the card to remind you of the job that person does.

- Keep the cards in a safe, accessible place so you can find them when you need them.

I don't think my child protection worker is being fair. What can I do?

- Talk to the child protection worker and calmly explain your concerns.
- Listen to what the child protection worker has to say.
- If you can't reach an understanding, you can talk to the child protection worker's supervisor.
- If you are still having problems, you can talk to a lawyer.
- If you still feel that you are being treated unfairly, talk to the Ontario Human Rights Commission at 1-800-387-9080 or 416-326-9511.

Can I appeal the decisions made by a child protection agency?

- Yes. Every child protection agency has a formal complaint procedure, and must provide you with a copy of the procedure if you ask for one.
- The first step is to discuss the disagreement with the child protection worker, or the worker's supervisor.
- If you don't succeed in dealing with your concerns this way, you need to follow the agency's formal complaints procedure.

Will my mental or physical health record be used against me?

- Not necessarily. But you must be clear about your own ability to care for your child.

- Have documentation about your health issues and the kind of treatment you are getting.
- If you are able to care for your child, make sure you can prove the steps you have taken to help yourself. Be able to prove that you are able to use the supports that are available to you and to complete treatment.
- Ask your doctor to talk to the child protection agency about your illness and the impact it may have on your ability to care for your child.
- Your doctor may charge for this service.
- A judge is likely to take all this information into consideration.

Can I just not talk about my health issues?

- Be honest when you answer questions about any health condition that you have. However, you do not have to give the information if they don't ask.
- If you do not tell the truth and you are found out, your case may be seriously damaged.
- Focus on how you treat your health problem, and be sure that it does not affect the care that you provide to your child.

If I ask for temporary care for the child from a child protection agency, who decides when it ends?

- The terms of temporary care agreements are worked out between the parents, the child if he is over age 12, and the child protection agency. Cooperating with the child protection agency will probably make the process easier.

Can one of my family members take care of my child?

- Yes. Your child can be placed with appropriate family members.
- It is a good idea to have a written agreement about your child's care, even if the caregiver is a close family member.
- That agreement should include how much you continue to be involved with your child, and when the agreement will be reviewed.
- This arrangement is not a foster arrangement. Your family members will not receive foster family payments.

Does my child have anything to say about his care?

- Yes. Child protection agencies consider the child's viewpoint in their decisions. Your child is also allowed to have separate legal counsel if the need arises.
- Your child may hire his own lawyer, you may hire a lawyer on his behalf, or the court may order representation through the Office of the Children's Lawyer.

Will I have to go to court?

- Not necessarily. Most meetings of child protection agencies and parents are voluntary. They do not involve courts or the removal of the child from his home.
- However, sometimes the situation cannot be resolved voluntarily. For instance, if your child is in immediate danger, the child protection agency may choose to remove him from your home right away.

- If this happens, the child protection agency must, within five days, go to court for a court order to keep your child in their care.
- You should attend any court proceedings related to your case.

Finding Your Way Around the Court House

What will happen at court?

- The child protection agency applies to the court for a hearing.
- The judge will hear arguments about the care of the child from both sides.
- The judge will make a decision about your case. Those decisions may include orders that you do certain things or act in a certain way in order to keep your child.

What do I need to know to represent myself?

- You need to know that the law is complicated and the process is difficult. It can be intimidating.
- You need to understand the process and the expectations of the court.
- You need to be able to prepare, read, and respond to all the paperwork.
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- Each side is allowed to time to discover information and to prepare its case. This can take time. Also, there are a lot of cases and a limited number of judges. Even if you are ready, you will have to wait your turn on the court docket.

Why do the judges' decisions differ so much?

- Each case is different. Even if two cases looks similar, family histories will be different as well as the personalities of the people involved. Decisions in family court cases take these differences into consideration.
- Because situations are so different, the law is written in very general language. Judges do not all think alike. One judge may understand the law in one way, while another sees the law in a slightly different way. As long as the judge's opinion is within the law, those differences of opinion are allowed.

- The judge will have to interpret the law as it applies to your particular situation.

This is all so frightening. What can I do?

- Don't panic.
- Stay positive.
- Take care of yourself.
- Get help and support.
- Use the information and resources in this guide.

Checklists

Information That May Be Helpful When Meeting With Your Lawyer

Gather as much of the following information as you can. Don't worry about things you don't have.

Personal information about yourself and the child's other parent

- Information such as current addresses, birth dates, employers, social insurance numbers, etc.
- Any physical or mental health concerns, criminal activity or charges, addictions, etc.

Information about your child

- Past, present and proposed arrangements for custody and access
- Any special needs of the child (e.g. physical, emotional, educational). Bring written reports from doctors or other professionals if you have them or can get them.
- Information about the day-to-day care of the child (e.g. who is primarily responsible for childcare, homework help, extra-curricular activities, discipline, etc.)
- Highlight any concerns you may have about your child (e.g. past or present concerns about your child's safety and well-being)

Information about your relationship with and separation from the child's other parent

- Details such as when you moved in together, date of separation, any attempts to reconcile, etc.

- Highlight any incidents of abuse (physical, verbal, emotional)
- Any other struggles or issues experienced in the relationship
- Any assets you had prior to the relationship and those you acquired together

Information about possible support

- Financial information for you and your child's other parent (e.g. sources of income)
- Child related costs such as day care, education, special needs, extra-curricular activities, etc.

Information about your assets:

- Clear description of the assets
- Present location of the assets
- Ownership of the assets (joint or individual)
- Actions or statements made by your child's other parent indicating he may dispose of or hide his assets

*Documents to bring with you if available**

- Certified copy of the marriage certificate (long form) or certificate of registration of marriage, if applicable
- Marriage, separation or property distribution agreements, if applicable
- Previous related pleadings and court orders
- Certified copy of divorce order if one spouse was previously divorced, if applicable
- Picture of child's other parent (for service purposes)

- Income tax returns for you and your child's other parent for past three years
- Financial information such as bank statements, pay stubs, credit card statements, loan agreements, information relating to pension plans, insurance policies, RRSPs, RESPs, etc.
- Records relating to matrimonial property, such as appraisal and property assessment, if applicable
- Relevant medical and legal reports for you, your child's other parent, or your child
- Any educational assessments for your child

**Derived from Law Society of British Columbia Practice Checklists Manual*

*Questions to Ask a Lawyer**

Use this list as a guide. Pick out the questions that are important to you.

About the lawyer

- Do you have a firm brochure or website with your biography?
- How long have you been practicing law?
- What is your experience in family law?
- Have you handled cases like mine? What was the outcome?

About your case

- What are the possible outcomes of my case, and the chances of success?
- What are the steps that will be followed in my case?
- What is the rough time schedule for the different steps?
- Approximately how long will it take to finalize?
- What complications might arise in my case?

About legal fees

- Do you require a retainer (a deposit) before you start working on my case?
- Do you charge by the hour or by the case?
- Do you have a payment plan if I cannot pay all at once?
- Could your rates change while you are handling my case? If so, why would they change and how much notice would you give me?
- Will any junior lawyers or legal assistants be working on my case? Do you charge for the legal assistant's or legal secretary's time?
- Assuming that there are no complications, what is the range of the possible fees, disbursements (payments for reports from other professionals, like doctors or therapists), and taxes? Can you give me a firm quote for the fees and/or disbursements?

About the work on your case

- How will you keep me informed about what is happening on my case?
- Will you send me copies of letters that you receive and send out?
- How quickly will you return my phone calls?
- Will you use email or fax to communicate with me?
- Who else in the office will be working on my case? Can I call them if I can't get hold of you?

*<http://lawyers-bc.com/question.htm>

List of Legal Terms

Access

In family law, the parent who does not have primary responsibility for the child usually has **access**. This is the right to spend time with the child on a regular basis. In some cases, where there are concerns about the parent's behaviour, the access may be supervised by an official or by a family member or friend. In very rare cases, there may be no access, but only where the parent has demonstrated abusive or other behaviour that would place the child at risk.

Applicant

In many tribunal and administrative lawsuits, as well as in family law, the person who initiates the claim is called the **applicant**. The person the claim is against is called the respondent.

Balance of probabilities

Different standards of proof are required by different courts to establish guilt or liability. Family court comes under civil law, where the standard of proof is on a **balance of probabilities**. This means that it must be more likely than not that the person alleged to have done something has actually done it. This is a much lower standard of proof than that required in criminal court.

Best interests of the child

Whenever courts have to make decisions about a child, they use a test called the **best interests of the child**. Generally, this means that the court must look at all the circumstances of the child and their family before deciding on custody and access or on a child protection agency application. Some of the factors courts consider are what the child is used to, what the child's health and education needs are, who has historically cared for the

child, who can best ensure the child stays closely connected with her extended family, what the child's wishes are, and who can best ensure the child is raised in her culture or religion.

Breach

A person who breaks or disobeys a court order is committing a **breach**. Usually this will result in the person being charged with another offence.

Caregiver

In legislation dealing with child protection, this term refers to any person who is in a regular role of providing care to a child. It includes parents, but also grandparents and other family members, if they are regularly responsible for the custody and care of a child.

Child Support Guidelines

Child support in Canada is determined according to these guidelines. They set out the precise amount of support that is to be paid, based on the income of the person paying the support and the number of children. In special circumstances, there are exceptions to these guidelines that allow parents to pay either more or less than the basic guidelines require. There are federal guidelines for those who are seeking child support as part of a divorce proceeding. Each province and territory also has guidelines for all other families. The amounts of support are very similar in all the different guidelines, but they do take into account regional economic differences.

Custody

This describes the arrangement made for the care of the child. Parents may **share custody**. Then they must both be involved in decision-making about the child. Or one parent may have sole custody, meaning she has all of the decision-making responsibility. Even where the parents share custody, the child may live primarily with one

parent and have visits with the other.

The Family Responsibility Office

This provincial government office makes sure that child support orders are enforced in Ontario. It helps to make the payment of child support happen. It has the authority to take a number of steps when the person who is to pay support refuses to do so, such as garnishing his pay cheque or bank account, and suspending his driver's license. Each province and territory has an office, although they all have different names. These offices do cooperate with one another, so that they can enforce orders from other provinces if the person paying the support moves around the country.

In need of protection

Before a child protection agency (usually called the Children's Aid Society or Family and Children's Services) can intervene in a family without the family's agreement, the agency must obtain an order from a court that the child is **in need of protection**. Such a finding can be made where the child has already been or is at risk of being harmed physically, sexually or emotionally, either because of abuse or neglect.

Judge

This is a person with the authority to hear evidence and decide cases in court.

Jurisdiction

This word can have two meanings. It can refer to the authority or power of the court and it can refer to a geographic area.

Justice of the Peace

This is a court official with limited duties, such as issuing warrants, granting bail, etc.

Legal aid

Legal aid is a form of financial assistance for people who require but can't afford legal consultation and representation. Legal aid takes a variety of forms. At a community legal clinic, people who qualify financially can obtain legal advice and representation on a wide variety of topics, especially relating to welfare reviews, landlord tenant matters, difficulties with employment insurance or disability benefits, and so on. Legal aid certificates allow people who meet the financial qualifications to retain their own lawyers to represent them in family or criminal court.

Duty counsel

Duty counsel are lawyers available to assist in both criminal and family court. They also provide basic legal assistance to people who do not have their own lawyers, and who meet the financial requirements

Plan of service

When a child protection agency is involved with a family because of concerns about the safety of the child, it will make a **plan of service**. The agency makes this plan with or without the family's co-operation. It describes what must happen before it will end its involvement. For instance, if the child protection agency is concerned because the family does not have proper housing, the plan of service will require that housing be found.

Primary residence

This is the name given to the home where child spends most of her time. Often, parents will share the custody of their child, but the child will have her **primary residence** with one parent.

Retainer

Most lawyers require clients to give them some money before they will begin working on their case. This is called a **retainer**. The lawyer puts it in the bank and bills her work against it. Once the first amount is used up, the lawyer needs the client to provide another lump sum of money.

Risk assessment

Trained professionals conduct **risk assessments** to determine the level of safety or danger in different situations. In a child protection case, the child protection workers complete risk assessments before they decide to remove a child from her home or permit her to return home.



