

The Law Commission of Ontario's Project on Entry Points in the Family Law System

QUICK FACTS ABOUT ONTARIO'S FAMILY JUSTICE SYSTEM

Families in Ontario and Family Breakdown

Family life in Ontario is diverse and has changed significantly in the last decades.

- In 2006, there were almost four million families in Ontario; over 500,000 were lone parent families, often the result of a separation or a divorce; there were 17,000 same-sex couples.
- In Ontario's families most men and women work or are available for the labour market, but 32% of mothers work part-time.
- The make-up of Ontario's population is changing, with changing immigration patterns and the aging of the population.

A family break-up can be traumatizing and disruptive. Many individuals experience a high level of stress in a situation of family breakdown.

- About 40% of all marriages and relationships in Canada end in a break-up. In 2006, almost 7% of Ontario's population aged 15 and over had gone through a formal divorce.
- More than 80% of persons surveyed in 2009 said that legal issues resulting from a divorce were "very important" or "important" to resolve.
- In 2001, 35% of single mother families lived in poverty. According to a 2009 study, of all working persons, single mothers aged between 25 and 44 work the longest hours: more than 10 hours of paid and unpaid work every day.

The Family Justice System and Separating and Divorcing Persons:

The majority of separating and divorcing couples can probably settle matters in a relatively harmonious way. Some couples use mediation to resolve a dispute. Some couples seek the intervention of a judge to resolve a dispute.

- The Ontario Family Courts annually deal with about 75,000 family cases other than child protection cases.
- About 70% of family cases in the Ontario Court of Justice concern issues related to custody, access and child support.
- It is estimated that 2% to 5% of all cases at the courts are so high conflict they go to a full trial. These cases put a significant pressure on the family justice system.
- About 50% of all cases remain in the system for at least longer than one year and a significant number (over 16%) at least two years.

High legal fees can be a barrier for many persons in a family dispute. The availability of family lawyers is limited. Members of Aboriginal communities lack adequate access to the family justice system.

- In 2010 about 19% of Ontarians in a family dispute indicated they had not accessed any legal assistance and another 24% had trouble accessing legal services.
- For many individuals the legal costs of the court process can be very high, on average ranging from \$12,000 (without a full trial) to \$45,000 (with a full trial) per person.
- Under Legal Aid Ontario's eligibility cut-off, a single person earning \$10,800 or less per year is eligible for legal assistance: a person working full time at the minimum hourly wage would earn twice as much.
- About 8% of Ontarians who qualified for legal aid, could not find a legal aid lawyer.
- Between 40% and 70% of persons in a court process are not represented by a lawyer, often because they cannot afford the costs of legal representation.

The court process and legal issues can be very complex. Studies in Ontario indicate that unrepresented individuals have many difficulties in maneuvering through the system.

Entry Points of the Family Justice System:

The Law Commission of Ontario's Family Law Project focuses on entry points of the family justice system. At entry points of the family justice system three vital functions are performed:

Early information and advice: For many separating and divorcing individuals it is difficult to choose a pathway which is suitable and affordable. Early information and summary (legal) advice can assist them in making the right choices and may prevent family disputes from escalating.

Assessments and triage: In a system with limited resources it is important that users are directed to proportional and suitable services to resolve a family dispute. The early detection of serious problems is of great importance for the appropriate and timely referrals to specific services.

Assistance in accessing services: Some persons may need help with the interpretation of legal problems or need a "trusted intermediary" to access services.

In practice, persons access the family justice system through many different persons and service providers. There are several challenges with respect to these various entry points:

- Non-legal entry points such as family, friends and, for example, family doctors, are often not familiar with the family justice system;
- There are many sources for information and summary advice, making it difficult for persons to gather relevant information; the online information in particular, can be hard to access;
- Community workers are not legal specialists, and there are often no (affordable) specialized legal services to which they can refer their clients;
- Legal specialists may focus on the family law aspects of a dispute, but not on other legal and non-legal aspects.

The current fragmented system and lack of services to make it accessible in the most effective way, has negative implications for users of the system and for those who work in the system, whether financial or emotional cost.