



LAW COMMISSION OF ONTARIO
COMMISSION DU DROIT DE L'ONTARIO

Quick Facts about Accessing Family Law in Ontario

Families in Ontario and Family Breakdown

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

- There are 3.6 million families in Ontario; about 72% consist of married couples and over 10% live in common law arrangements.
- About 16% of families are lone-parent families; although there are far more female-headed lone-parent families (13%) than those headed by males (3.5%), the growth in male lone-parent families over the past few years has been just over 16% compared to 6% for female-headed families.
- Between 2006 and 2011, the number of same-sex legal marriages increased by 181% (compared to 3% for opposite-sex couples);
- In 2011, there were 39% of couples with children living at home and 44% of couples without children at home;
- 19% of children live with lone-parents; over 82% live with female-lone parents.
- Fathers are more likely to be involved in their children's day-to-day lives than in the past.
- In Ontario's families most men and women work or are available for the labour market, but 32% of mothers work part-time to accommodate childcare responsibilities, compared to 6% of men.
- 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.
- Men are no longer the main income generators within a family.
- The make-up of Ontario's population is changing, with changing immigration patterns and the aging of the population and the family lives of women and men may differ depending on their membership in a particular cultural community.
- Aboriginal women are less likely to be in married relationships than are non-Aboriginal women and are more likely to lone parents; however, more people may be involved in raising a child than in non-Aboriginal families.
- Immigrant women are more likely to be married than are Canadian-born women and more "visible minority" women live in married relationships than do "non-visible minority" women.

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, although there has been a decrease of about 8% of new divorce cases between 2006 and 2011.
- More than 80% of persons surveyed in 2009 said that legal issues resulting from a divorce were "very important" or "important" to resolve.

- Women are more likely to be subject to domestic violence than are men, and to be subject to more serious forms of violence. About 83% of victims reporting domestic violence are women

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.

- 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 increasing emphasis on the reliance of on-line information and self-help materials so that people can represent themselves has an impact on certain people in particular:

- People with low levels of literacy, cognitive disabilities, low computer literacy or lack of access to computers or the internet are all disadvantaged by the increasing emphasis on on-line information.
- Studies have shown that the provision of information and self-help materials is most effective when people have access to in-person assistance.

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. For some people in particular, it may be especially difficult to access the system:

- In Toronto, just over 15% of persons speak only a language other than English or French.
- The mother tongue of nearly a fifth of Aboriginal women is an Aboriginal language.
- For many Deaf persons, English or French may be a second language.
- About 60% of recent and established immigrants have low levels of literacy, below that necessary for making use of information, compared to 37% of the Canadian-born population.
- Persons with cognitive disabilities may have difficulty with using technology to access information.
- Among the current population of older persons the literacy level of the largest proportion of persons over 65 was the lowest level.
- Accessing technology may still be more difficult for people living in remote areas.