




# Improving Protection Orders: Consultation Paper for Family, Child Protection, and Civil Law **Appendix A**

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LAW COMMISSION OF ONTARIO  
COMMISSION DU DROIT DE L'ONTARIO



# Appendix A: Consolidated List of Consultation Questions

## Consultation Questions about Accessing Protection Orders

1. Should Ontario establish emergency access to protection orders?
  - a. Should Ontario require protection order applications to be heard and decided within a specific timeframe?
2. Should the types of intimate and family relationships eligible for protection orders be expanded in the *FLA*, *CLRA*, and/or *CYFSA*?
3. Should Ontario define violence in the *FLA*, *CLRA*, and/or *CYFSA* for restraining order eligibility? If yes, what forms of violence should be included?
4. Who should be able to apply for protection orders on behalf of people in need of protection, with their consent (and/or by leave of the court)?
  - a. Should courts be able to consider granting a protection order without an application?
5. Do you support increased funding for legal aid to access protection orders? What additional changes, such as strengthening protection order advocates, would you recommend?

## Consultation Questions about Protection Order Processes

6. What procedural reforms, such as implementing review procedures, would make emergency protection orders effective? How can applicants' need for emergency orders be balanced with respondents' rights?
7. How can Ontario improve urgent and *ex parte* motions in protection order proceedings?
8. How can Ontario protect sensitive information and improve document service in protection order processes?
9. What trauma-informed court procedures could improve protection order proceedings?
10. What interim protective measures might reduce the risk of retaliation and other violence between the date of the protection order application and the court's decision?
11. Are procedural reforms needed to address litigation abuse in protection order proceedings and claims for mutual protection orders?
12. Should courts be responsible for updating protection orders to reflect modifications? What do you recommend about how to maintain up-to-date and accessible copies of protection orders?
13. How can the procedures for changing, extending, or terminating protection orders be easier, safer, and/or faster?

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## Consultation Questions about Evidence in Protection Order Proceedings

14. Should the reasonable fear standard for evaluating a restraining order application be replaced by a different standard of proof?
  - a. Should the evidentiary standards for emergency and non-emergency protection orders be different?
  - b. Is it a problem that the two different types of restraining orders in the *CYFSA* rely on different evidentiary standards (best interests vs. reasonable fear)?
15. Do courts have enough information about applicants' safety needs, the history of violence, the risk to children, etc., when evaluating the need for a protection order?
  - a. If not, what might safe, appropriate, and effective pathways to collect and communicate this information look like, and who should be responsible?
16. Should Ontario legislatively prohibit a list of myths and stereotypes that courts must not rely on?
17. How can children's experiences, wishes and safety needs be better ascertained, integrated into the evidentiary record, and weighed by the court in protection order proceedings?
18. Who should conduct risk assessments, how often, and using what tool(s)? How should risk assessments be introduced as evidence and relied on by courts?
19. Should Ontario legislate a list of risk factors to consider when evaluating a protection order application?
20. Should the use of expert evidence in protection order cases be expanded? If so, how?
21. How should courts address the issue of cross-examination by unrepresented parties?

22. Should courts weigh the impact of granting a protection order on respondents? If so, to what extent?
23. How should evidence and/or orders from related court proceedings be communicated and integrated into the family court record (and vice versa), if at all?
24. How should Ontario ensure related proceedings are not a bar to protection?

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## Consultation Questions about Protection Order Conditions

25. Should Ontario legislate a statutory list of conditions for protection order decision-makers to consider? What should be on the list?
  - a. In what areas are conditions missing, being overlooked, or falling short of what is needed to provide protection?
  - b. How can we encourage courts to identify and draft conditions that are responsive to applicants' unique safety needs?
26. What do you recommend about how to improve conditions relating to children, weapons, property and finances, tech-facilitated violence, and animals?
  - a. Should courts be authorized to mandate counselling and electronic monitoring in protection order conditions?
27. Some conditions may be impossible to comply with or perpetuate violence (such as those that remove the respondent from the family home and render them unhoused). How can courts evaluate potential conditions more effectively? What supports and services should be activated when protection order conditions are imposed, and by whom?



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## Consultation Questions about Protection Order Duration

28. Should Ontario legislate minimum and/or maximum durations of protection orders?
- a. What factors should guide judicial discretion to determine the appropriate duration of emergency and non-emergency protection orders?
29. Should courts consider making the duration of protection orders conditional on voluntary completion of counselling or an intervention program, followed by a positive risk assessment?

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## Consultation Questions about Enforcing Protection Orders

30. How can we improve police enforcement of protection orders?
31. If Ontario creates standalone civil protection order legislation, should breaches of emergency protection orders be prosecuted through provincial arrest and offence provisions or via s. 127 of the *Criminal Code*? What about non-emergency orders?
- a. Should restraining orders in ss. 102(3) and 137 of Ontario's *CYFSA* have the same enforcement mechanism and consequences for breaches?
32. Are the consequences of breaching a protection order an appropriate and effective deterrent? If not, what other responses should be considered?
- a. What do you recommend about how to address a respondent's indirect non-compliance with a protection order?
33. Who should inform protected persons and respondents about the content of a protection order, the consequences of breaching the order, and how to report a breach?

34. Should Ontario create a protection order database? If so, how can we improve record-keeping to ensure a protection order database is accurate and up to date? Who should have access to the database?
35. Should protection order compliance be monitored on an ongoing basis? If yes, how?
36. Should Ontario provide for the recognition, registration, and interjurisdictional enforcement of protection orders from other jurisdictions?

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## Consultation Question about Improving Coordination

37. How can we improve legal system and cross-sector coordination for protection orders, including on the topics of identifying and linking proceedings; sharing information, evidence, and orders; avoiding conflicting court orders and expectations; using technological solutions; and through specialized courts?
- a. Should Ontario legislate a hierarchy of court orders to determine precedence in the event of a conflict?
- b. Is expanding the Integrated Domestic Violence Court (IDVC) a viable strategy for better protection order coordination? If so, how should cases that do not meet the IDVC's criteria be addressed?

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## Consultation Question about Civil Protection Order Legislation

38. Should Ontario reform protection orders through new standalone civil protection order legislation, amendments to the *FLA*, *CLRA*, and *CYFSA*, or some combination?

## Consultation Questions about Supplementary Strategies

39. Should Ontario:

- a. Strengthen education, training, and data collection relating to protection orders?
- b. Enact a version of Clare's Law?
- c. Create a Civil Resolution Tribunal to hear some types of protection order applications?
- d. Introduce restorative and transformative justice options for people in need of protection?
- e. Invest in ongoing and follow-up care for families affected by violence?

40. What other strategies should Ontario adopt to improve the accessibility and effectiveness of protection orders?





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