

Office of Children’s Lawyer (OCL)	At the request of one of the parents through their lawyer, a separate lawyer may be assigned to represent children under 18 years in court cases involving custody and access, child protection, civil, and estates and trust cases. The OCL may assign a lawyer and/or a social worker to work on your child’s case. In some cases the lawyer will represent the child’s interest in court. In other cases a social worker may prepare a report outlining recommendations to the court with respect to a plan for the child.
Property Division	When a married couple separates, they must usually share any increase in their money or property that happened during the marriage. They also have an equal right to continue to live in the home they were living in together. It does not matter which spouse owns or rents the home. These rules do not apply to common-law couples. If a common-law couple separates, each spouse usually keeps their own money and property. Common-law couples only divide things that they own together. A common-law spouse may sometimes be able to claim a share of the other spouse’s money or property, but this is not an automatic right as it is with legally married spouses.
Restraining Order	A court order through Family Court, Provincial Division that says a person cannot go near one or more specific people, or restricts communication with them (e.g. your partner cannot come within 500 meters of you and/or children, or your partner cannot communicate with you or your children except through an agency or other person).
Spousal Support	Spouses may be responsible for financially supporting each other. A spouse is someone you are married to or live with in a common-law relationship. The spouse may pay spousal support with the higher income to the spouse who earns less. The amount of support and how long it is paid depends on things like the length of the marriage or relationship and whether one spouse stayed at home to care for the children.

Hiring a Lawyer

Legal Aid Certificates

- Will pay for up to a certain number of hours for the lawyer’s time, and in some cases, financial coverage may be extended. Legal Aid pays the lawyer directly.
- Not all lawyers will accept a Legal Aid Certificate- get list of names of Legal Aid Lawyers

Lawyers in Private Practice

- Fees include the cost of a lawyer’s time, and other costs of working on a file, such as photocopying, fees to obtain documents, fees for filing documents in court.
- Ask for rough estimate in writing of expected fees and other costs. Ask your lawyer to tell you if the estimate is going to change.
- Retainer: a deposit of money to your lawyer before any work is done. If the retainer is used up before the file is complete, additional money may be requested.

What to look for in a Lawyer:

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| ☐ Has experience in family law | ☐ Answers your questions |
| ☐ Has experience with domestic violence | ☐ Gives advice but also considers your wishes and instructions |
| ☐ Listens closely | ☐ Will accommodate your disability |
| ☐ Explains things so you can understand | |

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| ☐ Helps you find an interpreter, if you need one | ☐ Answers your calls within a few days |
| ☐ Is comfortable if you bring a support person | ☐ Is clear about billing |
| ☐ Lets you bring your kids to the office, if needed | ☐ Accepts Legal Aid Certificate, if you have one |
| ☐ Doesn’t make you feel rushed | ☐ Location of office is easy to get to and is safe |

Tips for First Lawyer Meeting:

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| ☐ Discuss and arrange in advance, an interpreter, or accommodation if you need it | ☐ Tell your story from beginning |
| ☐ Consider bringing someone with you | ☐ Write down questions you have |
| ☐ Be prepared- bring documents | ☐ Think of what solutions you would like |
| | ☐ Bring Legal Aid Certificate, if you have one |

Ask the lawyer:

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| ☐ Have they had cases like yours before? | ☐ What are your choices? |
| ☐ Are there any community services you can contact for information/support? | ☐ Are there any unique legal circumstances involved in your case? |
| ☐ What are their business hours? | ☐ What are the next steps? |
| ☐ What is the estimate of what their services will cost and how you will be billed? | ☐ Is there anything I should NOT do? |
| ☐ Is there anything that could cause the cost to increase? How can you keep costs down? | ☐ When will I hear from you next? |

After the meeting consider:

- ☐ What do you want the lawyer to do? Can you do anything without a lawyer?
- ☐ Do you feel comfortable with the lawyer, and in their office?
- ☐ Does it feel like the lawyer will work with you, or just tell you what to do?

If you have a problem with your lawyer:

- ☐ Talk to them or consider getting a second opinion
- ☐ Change your lawyer- ask for a copy of your file (pay for photocopying and your bill)
- ☐ Complain to Law Society of Upper Canada- complaints include failing to return calls, failing to report on their work, failing to report on handling of money, and misleading, rude or discriminatory behaviour.
- ☐ For situations involving a lawyer who discriminated or harassed you based on race, ancestry, place of origin, colour, ethnicity, citizenship, creed, sex, sexual orientation, same sex partnership, gender identity, age, marital or family status and/or disability, contact Discrimination and Harassment Counsel.
- ☐ If you have questions about your bill, ask for a copy and have lawyer explain the bill. Complain to the Court within 30 days (costs \$75). After a hearing, the Court may order a reduced lawyer’s bill. For questions about this contact Law Society of Upper Canada.

Family Court

A family court case can be confusing to anyone who is not familiar with the process. For a survivor who is dealing with trauma as a result of past/ongoing abuse by their (ex)partner, it may be overwhelming and may involve ongoing harassment, abuse, or intimidation. The following are suggestions to help you manage this difficult and lengthy process.

- ☐ If you are planning to leave your (ex)partner due to abuse, plan to take your children with you because getting them back in your care requires a valid court order signed and directed by a judge.
- ☐ Children have the right to have a relationship with both parents regardless of the issues between their parents, but their safety is paramount. Speak with a lawyer (Advice Counsel and The Information & Referral Coordinator at the Family Law Information Centre) about a plan that will enable the children to maintain relationships with both parents, but also to address concerns about safety.
- ☐ If police attended your home due to domestic violence, the police report will automatically be shared with Halton CAS due to risk of harm for children exposed to violence. A CAS worker will contact or visit you. If a professional involved with your family receives information indicating children are exposed to domestic violence, they will contact CAS as per their duty to report.
- ☐ CAS is a support to families experiencing issues related to domestic violence. Your worker is able to talk to you about available resources for yourself, your children, and your (ex)partner. Your worker is able to help you create a safety plan for you and your children, as well as a plan to decrease the risk of future harm. Connect with them and use them as a support for your family to move through this process.
- ☐ Learn about the family court process by:
 - ☐ Contacting the Family Court Support Worker at Halton Women’s Place
 - ☐ Contacting the Women’s Centre of Halton about their free legal advice and services.
 - ☐ Visiting the ‘Steps to Justice’ guide to Ontario Law online at www.stepstojustice.ca/legal-topic/familylaw
 - ☐ Speaking with other survivors who have been through Family Court
 - ☐ Visiting online at Family Law Information for general information and to find a centre near you (<https://www.ontario.ca/page/family-law-information-centres>)
 - ☐ Visiting Community Legal Education Ontario (CLEO) online at www.cleo.on.ca
- ☐ Seek legal advice for matters involving family law (divorce, custody/access, child/spousal support, and property division) as soon as you are able in order to make informed choices. You can seek out private practice lawyers or those involved with Legal Aid Ontario.
- ☐ If financially eligible, obtain legal aid certificates from Halton Women’s Place or Legal Aid Ontario (1-800-668-8258) for list of available lawyers who provide legal advice and representation on family law matters, including Children’s Aid Society cases.
- ☐ If you go to court without a lawyer and meet financial eligibility, duty counsel is available for immediate, free legal assistance, support with documents for court, information about court process, negotiate a settlement, or represent you in court for child protection, custody/access and support matters. Bring all your court documents with you so duty counsel is best able to support you.

- ☐ Identify your needs and priorities in preparation for meeting with lawyer or court appearances. Inform your lawyer or duty counsel about the abuse and if there are or have been criminal charges.
- ☐ Use family, friends, or neighbours to support you and your children during pick-ups and drop-offs. Should supervised access be court ordered, connect with Thrive Counselling to access the Supervised Access Visitation Centre.
- ☐ When creating an access plan, consider using a program such as ‘Our Family Wizard’ app which helps provide controlled communication and keep both parties following the parenting plan
- ☐ Should you feel that your children are at risk of harm by your (ex)partner, it is imperative to create a plan to protect them. Speak with a lawyer about creating a plan to ensure your children are protected.
- ☐ Speak with a lawyer about the possibility of obtaining Exclusive Possession of the Matrimonial Home. This is a court order that would enable you to stay in the family home.
- ☐ There are legal differences between Common Law vs. Married. Speak with a lawyer about the difference and what you are or are not entitled to during a separation and/or divorce.
- ☐ Set realistic goals to help you manage your expectations of the family court process. Know that the process take time, will move slowly, and sometimes will be prolonged due to delay tactics used by your (ex)partner.
- ☐ Be prepared that some survivors experience legal bullying by their (ex)partner. Plan ahead on how to cope emotionally and financially with (ex)partner’s attempts to intimidate, coerce, and control you.
- ☐ Have your lawyer ask the judge to make order with consequences for non-compliance and to require timely disclosure of information to allow a case to proceed.
- ☐ Courts of Justice Act, Sec. 140, allows judges to make an order prohibiting a party from bringing further court proceedings without specific permission from the court if they were identified as a “vexatious litigant.”
- ☐ Rules of Civil Procedure have two sections dealing with troublesome parties. Rule 60.11 permits a judge to make a contempt order against a party who defies court procedures or orders. Rule 57 allows a judge to order (ex)partner pay all the survivor’s costs if they bring harassing matters in front of the court.

At the Courthouse

- ☐ If your (ex)partner started the court process and you have received a notice to attend a Mandatory Information Program (MIP), contact the telephone number on the notice to reschedule your MIP. Parties are not scheduled for the same MIP session but your ex(partner) will know the date of your first MIP. Make sure you tell the person who answers the phone at FLIC about the abuse and any concerns you might have about your (ex)partner so a safety plan can be put in place.
- ☐ Plan ahead on how you are going to get to court. If possible, have someone else drive you so your (ex)partner will not see your vehicle, and you can be dropped off at the door.
- ☐ Arrange to have a support person with you (friend, family, Halton Women’s Place or SAVIS for court accompaniment).
- ☐ Arrange to have an accompaniment to court and to lawyer appointments through the Family Court Support Worker Program offered through Halton Women’s Place.
- ☐ Arrive to court early to avoid seeing your (ex)partner. Or, if your (ex)partner is usually early, arrive right before the hearing to avoid running into them.
- ☐ Park your car close to the door of the courthouse. Do not park near your (ex)partner’s vehicle if possible.

- ☐ If fearful for your safety, pre-arrange with Police or Security to take you into the courthouse.
- ☐ Know what courtroom your case is being heard, but find space to sit that is not immediately outside of the courtroom. Try to sit near court officers or security if possible, or pre-arrange a space with the Crown Attorney to wait until your hearing.
- ☐ Be prepared to wait. Bring items to keep you busy and to help you manage your stress.
- ☐ Familiarize yourself where the washrooms are, and if possible, ask someone to escort you to the washroom
- ☐ If your (ex)partner violates their court order while in the waiting area or in security line to enter court, notify it to a court office to call police.
- ☐ At the end of the hearing, have your lawyer ask to have your (ex)partner wait until you can leave the courthouse. If this does not happen, find a safe place to wait in the courthouse to give time for your (ex)partner to leave the courthouse, so you can leave. If you need to leave right away, ask to have an escort walk you to your car. If you have a support person with you, have them pick you up outside the entrance, or at a place where your (ex)partner may not see the vehicle.

Frequently Asked Questions

Where do I find legal support if I have experienced partner abuse?

A lawyer has special training that allows them to give legal advice. Legal advice means that a lawyer can explain how the law applies to your specific legal problems. A lawyer can represent you in court. They can also let you know the different ways you can resolve your issues without going to court. If you have experienced family violence and need immediate legal help, you might be able to get 2 hrs of free advice from a lawyer. This service is offered through some women’s shelters, community legal clinics, and Family Law Service Centres. Or you can call Legal Aid Ontario toll-free at 1-800-668-8258 to find out more.

What happens if I cannot afford a Family Law Lawyer?

You can attend the Milton Courthouse and ask to speak with Advice Lawyer in the FLIC office (Mon-Fri, 9:30-12:30 and 1:30-4). Service is on a first come, first serve basis. On your actual court date you can ask to speak with Duty Counsel. There will be a sign up sheet near your assigned courtroom. You may be eligible for Legal Aid (1-800-668-8258).

How does mediation help me?

Family mediators can help you resolve child custody and access, child and spousal support, and division of property issues. The mediator will meet with you individually prior to mediation commencing. Mediators have specialized training in domestic violence and working with families where there are power imbalances and high conflict. You should tell the mediator about the abuse you have experienced. This communication is confidential. The mediator will talk to you about your options in mediation and will advice you if mediation is appropriate or not in your situation. If you decide to proceed with mediation, the mediator can arrange for mediation to take place without you having to meet with your (ex)partner, or can arrange other safety measures based on your circumstances. Mediation is voluntary, and either party can end the process at any time. It is still important to have a lawyer or to obtain legal advice because the mediator does not give legal advice and may not be a lawyer. Sometimes the lawyer will attend mediation with you or you can have a support person attend with you. No agreement reached in mediation is signed in mediation. Your lawyer or duty counsel will provide you with legal advice with respect to the agreement and may assist with drafting legal papers, which can be made into court orders or domestic contract.

There are mediation services connected with every court in Ontario. In Milton,

- On-Site mediation services are available at FLIC office provided through Legal Aid Ontario. These services are available to all families who have started court proceedings and can take place on your court date or by appointment. Issues mediated are custody, access, and child support. No fees.

- Off-Site mediation services are provided by The Mediation Centre in Oakville and Hamilton (905-849-0417). These services are by appointment only. Mediation includes custody, access, child and spousal support, and division of property. Fees apply, based on a sliding scare (based on income and number of dependents), fees starts as low as \$5/hour. There are no fees for the initial individual appointment.

Legal Terminology

Access Order	Ontario’s laws require a court to consider any violence against a spouse or parent of a child when making an order for custody of or access to a child. If your child is a victim of abuse by the other parent, you can ask the court to deny that parent access or allow access only if it is supervised.
Alternate Dispute Resolution (ADR)/ Mediation	In some family law cases, ADR can be better than going to court. Participants can have more control over their cases, and ADR can be faster, cheaper, and more private than a court case. However, ADR is not appropriate for all kinds of disputes. In particular, it may not be appropriate in some cases of intimate partner abuse or other situations where one partner has more power and control than the other. It is important to talk to the mediator about the abuse and power and control issues you have experienced so the mediator can determine if mediation is an appropriate option for you.
Child Custody, Access, and Parenting Plans	Parents who are separating have to decide where their children will live and how much time they will spend with each parent. This is called access. They also have to decide who will make major decisions about how to care for and raise their children. This is called custody. All together, these arrangements are called parenting plans.
Child Support	All parents are responsible for financially supporting their children as long as the children are dependent. Dependent usually means at least until the child turns 18 and sometimes longer. In most cases, child support is paid by the parent who spends the least amount of time with the children to the parent who takes care of the children most of the time. It is used to help cover the costs of caring for the children. The amount of child support usually depends on the income of the parent who is paying support and the number of children they have to support.
Exclusive Possession	A court order that says only one partner can stay in or return to the home and the other partner isn’t allowed on the property. If there are children, usually the order also includes that the children are allowed on the property. The order is usually temporary. The court doesn’t decide who owns the home or who rented it when deciding which parent can stay in it.
Mandatory Information Programs (MIP)	Essential information about the family justice system is shared during the mandatory sessions focusing on available options to resolve disputes and effects of separation on the family. MIPs are provided at all family court locations in Ontario.
Non-Remove Order	An order a court makes to prevent one or both parents from taking their child(ren) out of a specified area, for example, the country or province.