



CLEO | Abuse and Family Violence

Do you know a woman who is being abused?

A legal rights handbook



August 2017

About this publication

This handbook is a guide to the legal system for women in Ontario who are in abusive relationships. The legal system is constantly changing. Each situation is unique and requires different solutions.

For legal advice about your situation, you should speak with a lawyer.

If you speak French

In many cases you have the right to government services and legal proceedings in French, including hearings before French-speaking decision-makers.

If you have a legal problem, you can ask a lawyer or a community legal clinic about your French language rights.

Si vous parlez français

Il existe de nombreuses situations où vous avez droit à des services gouvernementaux et à des procédures juridiques en français. Ainsi, vous pouvez avoir droit à ce qu'une audience à laquelle vous êtes partie soit tenue devant un décideur qui parle français.

Si vous avez un problème juridique, vous pouvez demander à un avocat ou à un intervenant d'une clinique juridique communautaire de vous informer des droits linguistiques liés au fait de parler français.

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Part 1: Introduction

This handbook is for any woman in Ontario who is being abused, or who has been abused, by her partner. The word “partner” in this handbook means a spouse, common-law spouse, boyfriend, or girlfriend.

The language in this handbook reflects the reality that men are usually the abusive partners in a relationship. However, abuse and violence can happen in other relationships too. For example, women in same-sex relationships can also experience abuse and violence. The information in this handbook applies to these relationships too.

Leaving an abusive relationship is difficult. Friends and family are not always understanding or supportive. You might face financial hardship and a legal system that can be intimidating. There can be cultural pressures and feelings of isolation.

A number of legal and community resources might be helpful to you during this time. This handbook gives you practical legal information. It also tells you what to expect if you decide to leave your abusive partner or change your situation.

III What is abuse?

When we see the terms “domestic violence”, “family violence”, “intimate partner violence”, or “violence against women”, we often think only of physical violence or injury. But abuse is not just physical. It can also be emotional, sexual, psychological, or financial. Abuse can include assault and other types of mistreatment and cruelty, such as threatening or stalking a person. All types of abuse have one thing in common: they create fear.

If your partner does any of the following things, you could be a victim of abuse. This list shows only some abusive behaviours. It does not include everything.

Your partner might:

- not let you have any money or take away control of the family finances
- cut off your contact with friends or family, and stop you from making new friends
- threaten to hurt you or your children
- threaten to hurt or damage something that is special to you, like a pet or something you treasure
- threaten to have you deported from Canada
- withhold your identification or other important documents
- threaten to take your children away from you
- threaten to call the Children’s Aid Society and report you as a child abuser

- threaten to call the welfare office and tell them you are getting social assistance illegally
- force you to do things you do not want to do sexually
- threaten to hurt himself if you do not do what he wants

III What kind of person abuses his partner?

People who abuse their partners come from every part of society. They can seem like good neighbours, co-workers, friends, partners, or parents. But they might believe that they have a right to hit and control their partners. They might also be very jealous and possessive.

Abusers often blame their partner for their actions or make excuses, such as feeling under pressure at work. Some abusers think that violence is an acceptable way to deal with anger.

They might feel guilty when they see the damage or injuries they have caused. This does not excuse them for what they have done or stop them from doing it again. When they are not being abusive, or are in front of others, they can be very loving and caring.

Changing their behaviour

Some people change their abusive behaviour after going through the criminal system and getting professional help. They might attend the PAR program, for example. [See page 40.](#)

Changing their behaviour depends very much on their ability to understand that they have a problem and being willing to change.

III What legal issues will I need to deal with?

If you are ending your relationship, here are some common family law issues you may have to decide:

- how to divide property and debts between you and your partner
- if one of you needs financial support, called spousal support
- where your children will live, who will make decisions about them, and how and when they will visit their other parent, called custody and access or parenting arrangements
- financial support for the children, called child support

If you are worried about your safety, you might need to apply for a **restraining order** or an order for **exclusive possession**. At some point, you might also want to get a divorce, if you are married to your partner.

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

Exclusive possession: a court order that says one partner can stay in, or return to, the home and the other partner is not allowed on the property. If there are children, the order usually also says 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 partner can stay in it.

You might also want to involve the police. If this happens, you might become involved with the criminal court system.

If you are new to Canada, you might be in the middle of an immigration or refugee process. This process could be affected if you leave your partner.

III Getting help

Call the Assaulted Women's Helpline toll-free at **1-866-863-0511** or **416-863-0511** in Toronto, to find out more about services that can help you. It offers services in more than 150 languages.

If you speak French, you can call Fem'aide at **1-877-336-2433**. This is a province-wide helpline for Francophone women.

If you are Indigenous, you can call the First Nations and Inuit Hope for Wellness Help Line at **1-855-242-3310**. This is a crisis helpline with counselling available in English and French and, on request, Cree, Ojibway, and Inuktitut.

If you are an Indigenous woman living in Northern Ontario, you can call Talk4Healing at **1-855-554-4325**. This is a helpline with services provided by Indigenous counsellors in English, Ojibway, Oji-Cree, and Cree.

If you are part of the Six Nations of the Grand River community, you can call Ganohkwasra Family Assault Support Services at **519-445-4324**. It offers a family violence and sexual assault crisis line.

Part 10 of this handbook also lists legal and community resources for women who have been abused.

[See page 101.](#)

Part 2: Preparing to leave

It is difficult to leave an abusive relationship. Leaving can often take a lot of time. You need to think about protecting yourself and your children, finding a place to stay both now and in the future, and getting financial support.

You might want help making these and other decisions. You can talk with someone you trust, such as a friend, doctor, nurse, lawyer, social worker, or shelter worker.

You can also call a crisis helpline. You don't have to give your name when you call. [See page 111.](#)

Other agencies can also offer support and advice. Be aware that some professionals have to report to a Children's Aid Society (CAS) if they believe that a child needs protection. [See page 78.](#)

Planning is very important. Whether or not you choose to leave your partner, your safety is the most important thing. You need to think about what to do and what to expect, and how you can protect yourself and your children. It is a good idea to get legal advice as soon as possible.

Your partner might try to monitor your phone calls, emails, or website visits. Luke's Place tells you how to stay safe online or on your phone.

See www.lukesplace.ca/resources/keep-safe-online.

Assess the risks

You know your partner. You need to assess the risks you face, whether you stay or leave. Abusive men often become more dangerous when they know their partners are planning to leave, or have already left.

Only share information with people you can trust to keep it private. Be very careful about what you tell your children or what they might overhear. It can be difficult for them not to share information with your partner.

III What is a good safety plan?

A good safety plan lays out, step-by-step, how to leave your home in the safest way possible. It also helps keep you safe before you leave.

Stay safe before you leave

Before you leave, you should:

- tell people you trust about the abuse
- ask neighbours or friends to call the police if they hear fighting or loud noises, or if they see anything suspicious
- call a counselling agency, crisis helpline, or women's shelter to talk about what is happening, and to learn how to create a safety plan when you leave

- memorize the telephone number of a local shelter
- be prepared to call 911 or the police if you or your children are in danger

Create a safe escape plan

Think about a place you can go where you will be safe, or where your partner will not know to look for you, such as:

- a friend's or relative's place
- a shelter or hostel
- another town or city (but if you and your partner have children, you should not go very far, or he could claim that you abducted the children)

Before you go, try to:

- put some money away in a safe place, a little at a time
- store important documents, or copies of important documents, somewhere safe (for example, photo identification, your passport, children's birth certificates, health cards, and banking information)
- keep a diary and write down the abusive incidents, if you can do this safely
- keep your diary somewhere your abuser and children won't find it
- get legal advice about your situation

Safety plan resources

Some staff at social services agencies, such as transitional support and housing workers, are trained to help women make safety plans. They can help you assess the risks and create a safety plan to protect you and your children.

For a sample plan, see the CLEO publication [My Safety Plan](#). You can find it at www.cleo.on.ca/en/safetyplan.

The Peel Committee Against Woman Abuse also has an excellent safety planning guide. You can find it at www.pcawa.net.

Part 10 of this handbook lists legal and community resources for women who have been abused. [See page 101](#).

III Can I take my children with me?

Both parents have an **equal** legal right to custody of their children when their relationship ends. This is true even if one parent did most of the child care, or if one parent abused the other. Only a court order or agreement changes this equal right to custody.

If you leave your partner and take your children with you, your partner might say that you abducted the children.

This does not mean you have to leave your children behind when you leave your partner. Talk to a lawyer about this

before you leave your partner, or soon after you leave. Shelters can help you get up to 2 hours of free family or immigration law advice.

The shelter can also help you apply for a **Legal Aid certificate** for your family law case. Tell the shelter and the lawyer you speak to if there is already an order related to your children.

Legal Aid certificate: a document that says Legal Aid Ontario has agreed to pay for a certain number of hours of a lawyer's time to work on your legal issues. Not all lawyers accept these certificates. You have to find a lawyer who agrees to work for you and agrees to accept your certificate. You can find a lawyer who accepts Legal Aid certificates online at www.legalaid.on.ca/en/getting/findingalawyer.asp.

If it is safe: leave a note for your partner that says you have left with the children, that they are okay, and that you will contact him soon so he can see the children.

If it is not safe: leave a message for your partner once you are in a safe place. Make sure your message does not include any information that he can use to find you.

Keep a copy of any note or message that you leave for your partner.

If you do not take your children with you

If you decide to leave your partner and you do not take your children with you, your partner might say that you agreed to give him custody and let the children live with him.

If you want custody of, or access to, your children, or want them to live with you in the future, leave a note that says you do not want your partner to have custody. Keep a copy of the note.

You should also try to stay in close contact with your children when you are not living with them. It is important to make custody and access plans as soon as possible after you leave. Talk to a lawyer about this.

What to take with you

When you leave, try to bring these things with you:

- clothes for a few days, for you and your children
- your children's favourite toys or blankets
- things like toothpaste, diapers, and soap
- money and keys
- any medication you or your children need

You should also bring these documents with you:

- identification, including birth certificates, health cards, passports, immigration documents, your driver's licence, and credit cards

- any documents from family or criminal court, such as bail conditions, a **restraining order**, or a custody and access order

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

- other documents, such as the deed for your house or lease for your apartment, pay stubs, social assistance cheque stubs, your Social Insurance card, and marriage certificate
- any proof of the abuse, such as photos, threatening notes, recorded telephone messages, or your diary
- names and badge numbers of police officers you have called in the past

III What happens if I call the police?

If you call 911, a police car will be sent to your home. When the police arrive, let them in. Even if you do not agree or your partner tries to stop them from coming in, the police can enter your home if:

- they have reasonable grounds to believe that a crime has occurred, or is about to take place, or
- you or someone else called 911.

If you have left your home, you can call the police again when you are in a safe place.

You can tell the police:

- you want to talk to them privately
- exactly what happened, and whether you were assaulted, threatened, or suffered any other kind of abuse
- if the abuse has happened before
- if any weapons were used and whether there are other weapons in your home
- if there are children or others who need help
- if anybody saw or heard the incident or assault
- if you feel unsafe

The police might want to make a video of your statement at the police station.

It is your choice whether you want to make a statement to the police. Even if you called the police, you are not required to make a statement.

It is not up to you what happens next. If there are reasonable grounds to believe that a crime has been committed, the police must bring criminal charges.

Even if they do not bring a charge, they are supposed to complete an **occurrence report**. If the police do not bring a charge, you might be able to bring one yourself.

Occurrence report: the police summary of what happened. It has details such as what you and your partner told them, and what the police saw. The report should include an occurrence or incident number.

You can ask the police:

- for the information in the occurrence report, including the occurrence or incident number
- to take pictures of your injuries
- to help you leave, or to take you to a shelter
- to give you their names and badge numbers
- to refer you to Victim Crisis Assistance Ontario, for support and help addressing your safety concerns. [See page 117.](#)

You should also know that recordings of 911 calls can be used as evidence in court.

III What if I am hurt?

If you are hurt physically, ask the police to call an ambulance or take you to a hospital, to a doctor that you know and trust, or to a Sexual Assault/Domestic Violence Treatment Centre (SADVTC), if there is one near you. A SADVTC is a hospital department that helps victims of domestic and sexual assault.

You can go to a SADVTC on your own, even if you have not contacted the police.

Staff at a SADVTC can provide you with medical treatment and photograph and document your injuries. They will ask for your consent before they do these things. You can agree to some things but not others. For example, you might agree to staff taking notes about your injuries but not agree to them taking photographs.

This information can be used as evidence in charges against your partner, or it can be kept in case you need it in the future.

Staff at a SADVTC can also help you even if you do not have any physical injuries, or think that you don't have any physical injuries. They offer 24-hour services and follow-up care, crisis counselling, and referrals to shelters. They also offer legal and financial help. [See page 116.](#)

If you are unable or not ready to leave your partner, there are community agencies that offer counselling and support to help you decide what to do. Many have services in different languages. [See page 101.](#)

III Where can I go next?

There are shelters where people who understand your situation can help you and give you a place to stay. You can get counselling, and your children can take part in different programs. Shelters are safe and secure places to stay, and they are free. [See page 114.](#)

You might want to stay with family or friends. Be careful about staying with someone who does not fully understand

the situation. They might encourage you to return to your partner, which could lead to more abuse. Or, they might tell your partner where you are. Think about whether you will feel safer at a shelter. Your partner might be able to find you if you stay with someone he knows.

If there is no shelter in your area or you do not wish to contact a shelter, you can call a crisis helpline. They will refer you to community resources and services. You do not have to give your name. [See page 111.](#)

III What can I do next?

Make detailed notes

As soon as possible after you arrive at a safe place, try to make careful notes of what happened. Your notes should include times, dates, names, and what everyone said. If you are able to keep a diary, it can help you to remember.

If you were threatened, but not physically touched, write down exactly what your partner said to you, and describe the situation. If he threatened to harm the children, write this down too.

If you were injured, write down all the details, including:

- exactly where your injuries are (for example, your upper thigh or the back of your neck)
- how you were hurt (for example, with an open hand, fist, or boot)

- how many times you were hit
- how severe your injuries were (for example, bruises, cuts requiring stitches, or broken bones)
- if there were witnesses, and their names

You can also draw a picture of your body and draw where you were hurt. If you see a doctor or a nurse, you can ask them to add details to your drawing and sign and date your picture.

These notes are very important. Keep them in a safe place. You can use them to refresh your memory if you are interviewed by the police, talk to a lawyer, or testify in court at a later date. These notes will help you provide information as clearly as possible.

If the police charge your partner with a crime, a police officer will prepare the case and a **Crown Attorney** will present the evidence in court.

Crown Attorney: a government lawyer who presents the case against the person accused of a crime in criminal court. They work for the government and are not the victim's lawyer.

You need to make sure that the police and the Crown Attorney are aware of all of the evidence. The police might ask you to sign a **consent form**, so that they can get medical evidence of your injuries from the doctor or hospital that treated you.

Consent form: a document where you give your permission to allow certain people, such as your doctor, to share information in their file about you.

Keep evidence of any assault

Keep any evidence of the assault that the police do not take, such as:

- photographs of your injuries
- recordings of threats
- torn clothing or property that was damaged during the assault
- names of witnesses

Access victim services

The Ontario government has an online Victim Services Directory that helps abuse victims find programs and services in their communities. Go to services.findhelp.ca/ovss. You can also talk to an information and referral counsellor by calling the Victim Support Line at **1-888-579-2888**. See page 116.

Part 3: The criminal process

In Ontario, the police have to charge someone with a crime in all cases of domestic violence where they have reasonable grounds to believe a crime has occurred.

If you call 911 because you want the police to talk to your partner or to give him time to “cool off”, the police might arrest him and charge him, even if that is not what you want.

All calls to 911 are recorded. So, if the police charge someone with a crime and the case goes to criminal court, what you say to the 911 operator can be used as evidence in court.

Important: If you fear for your safety, call 911.

III What charges might be brought?

There is no specific charge for domestic violence or partner abuse. If the police charge your partner, they decide what crime to charge him with.

Assault

Assault is a crime where one person applies force to another person, or attempts or threatens to apply force to them without their consent. Assault is a crime even if you are not physically hurt, and sometimes even if you were not actually touched.

Assault charges include “assault”, “assault with a weapon”, “assault causing bodily harm,” and “aggravated assault”.

Sexual assault

Sexual assault is a crime that is a sexual act or touch that you don’t consent to. This might include kissing and touching, fondling, or rape. Sexual assault is a crime even if you’re not physically hurt.

Being married does not give your partner the right to be sexual with you without your consent. If he is, this is the crime of sexual assault.

Sexual assault charges include “sexual assault”, “sexual assault with a weapon, threats to a third party or causing bodily harm”, and “aggravated sexual assault”.

Other charges

If your partner forced you to stay somewhere by threatening you or physically stopping you from leaving, he might be charged with “forcible confinement”.

If your partner threatened you, he might be charged with the crime of “uttering threats”.

Another common charge in partner abuse cases is “criminal harassment”. Criminal harassment includes things like stalking, harassing phone calls, or unwanted visits to where you live or work.

The police will understand your situation better if you give them background information and details of other incidents or criminal convictions. Your partner can be charged for violent behaviour that happened in the past.

III Can I also be charged?

There is always a possibility that you will be charged. When the police arrive, they are supposed to question you and your partner separately. The police will investigate to determine whether or not a crime has happened.

The dominant aggressor

The police are supposed to consider the history of your relationship and decide which partner is the **dominant aggressor**. They do this before deciding whether and who to charge with a crime.

Dominant aggressor: the partner who has caused most of the violence in the relationship.

Even if you have been physically aggressive towards your partner, the police should not charge you if your partner is the dominant aggressor and if you were trying to protect yourself or someone else, such as a child. However, abusers often lie about what happened when they talk to the police. If this happens, the police might charge you instead.

If your partner lies to the police, you will need to tell them about your partner's assault, including anything you did to protect yourself.

Investigations and statements

The police should investigate the whole story. This includes any prior abuse, police involvement, court orders, and information from witnesses. This will help them determine if anyone has committed a crime. This investigation is very important, especially if you do not have any physical marks or injuries or if your partner has lied to the police about what happened.

The police might want to make a video of your statement at the police station. It is your choice whether you want to make a statement to the police. Even if you called the police, you are not required to make a statement.

Many officers now have “body cams”. These are body-worn video recorders that can record their conversation with you. If you are speaking to a police officer, you should ask if they are recording what you say. If you do not want to be recorded, you should tell them and ask that the body cam be turned off.

If you agree to make a written statement, you can ask to look at it and make any changes before you sign it.

You can also ask for an interpreter if you need one.

The police have professional interpreters who can accurately translate for you, so that family members or friends do not have to act as interpreters.

The police should always file an **occurrence report**, even if they do not charge anyone with a crime.

Occurrence report: the police summary of what happened. It has details such as what you and your partner told them, and what the police saw. The report should include an occurrence or incident number.

Anything you say to the police must be truthful. What you say will be treated seriously, whether it is at the place where the incident happened or at the police station. Recordings of 911 calls, video statements, and body cam recordings can be used as evidence in court.

III What if I am charged?

If you are arrested, you have the right to know the reasons for your arrest. You have the right to stay silent. You also have the right to contact a lawyer right away.

Getting help

If you are being held by the police, you can ask them to call the duty counsel hotline at **1-800-265-0451**. The police can call this number 24 hours a day.

1. The police will tell the duty counsel lawyer what you're being charged with.
2. You'll be able to speak to the duty counsel lawyer over the phone.
3. The duty counsel lawyer can give you up to 20 minutes of free legal advice over the phone. This is meant to help you until you can get your own lawyer.

If you are charged with a crime related to partner abuse, get legal help right away. You can apply to get a **Legal Aid certificate** to hire a lawyer to represent you. You must qualify financially.

Legal Aid certificate: a document that says Legal Aid Ontario has agreed to pay for a certain number of hours of a lawyer's time to work on your legal issues. Not all lawyers accept these certificates. You have to find a lawyer who agrees to work for you and agrees to accept your certificate. You can find a lawyer who accepts Legal Aid certificates online at www.legalaid.on.ca/en/getting/findingalawyer.asp.

Legal Aid Ontario might also consider what serious consequences you might face if you are found guilty. For example, if there is a chance you will get a jail sentence, lose your job, lose custody of or access to your children, or face immigration or refugee challenges, you might be able to get a certificate.

If Legal Aid Ontario rejects your application, you can:

1. Appeal the decision. This means that you disagree with the decision and want to ask someone with more authority to review the decision.
2. Go to court and ask for an order that the government pay for your lawyer. The court might make this type of order if you cannot afford a lawyer and you need one to have a fair trial.

You might also want to talk to someone at a shelter or a community legal clinic. They can get you up to 2 hours of free family or immigration law advice. [See page 101.](#)

If you are not able to hire a lawyer, you might be able to get help from criminal duty counsel at the court. You need to qualify financially, and duty counsel can only help with some things. For example, they cannot usually help at a trial but can help at other court dates.

Other circumstances

If you are not a Canadian citizen, it is very important for you to speak with an immigration lawyer. A criminal charge or conviction could affect your right to stay in Canada. For example, even if you are a permanent resident, you could lose your status and be deported if you are convicted of a serious crime.

If you are part of a family court case to get custody of or access to your children, you should also speak with a family law lawyer. Criminal charges or convictions might affect your family law case or a Children's Aid Society investigation.

III What will happen to the children?

The police have a duty to report any concerns about the children's safety to a Children's Aid Society (CAS). This can

include a child who has witnessed domestic violence, even if the child was not physically harmed and there were no criminal charges brought. [See page 78.](#)

A CAS worker might visit your home. CAS staff are trained to work with women in abusive relationships. If your worker is not helpful, ask to speak to a supervisor.

III **What if the police do not charge my partner with a crime?**

If the police do not charge your partner with a crime, ask them why. Ask to speak to another officer, such as the officer in charge of the police station or the domestic violence co-ordinator, if there is one at that station.

If you are not satisfied with their response, write down the officers' names and badge numbers. You can make a complaint to the Office of the Independent Police Review Director (OIPRD). You can call OIPRD toll-free at **1-877-411-4773** or go to www.oiprd.on.ca.

You should get advice from a lawyer or a community legal clinic before you make a complaint. You should also get advice during the complaint process, if you decide to go ahead. This is a serious step and there might be other ways to address your concerns.

Bringing a charge on your own

You can bring your own criminal charge against your partner for an assault that has just happened or that occurred in the past. You can do this whether or not the police were called at the time. If the police were called and they did not charge your partner with a crime, they should have made an **occurrence report**. You can use this report to bring your own charge, but it is not necessary. You should bring your own charge as soon as possible after the assault. If you do not, the court might ask why you waited.

Occurrence report: the police summary of what happened. It has details such as what you and your partner told them, and what the police saw. The report should include an occurrence or incident number.

It can be dangerous to stay with your partner after charging him with a crime because he might become more violent.

To bring your own charge or get a **peace bond**, you must go to criminal court. Your community legal clinic can give you more information about bringing a charge yourself, or to find out what you should do if your partner brings a charge against you. If the clinic cannot help you, it should be able to refer you to someone who can.

Peace bond: a court order that is a signed promise to keep the peace and be of good behaviour.

III What is my role if the police charge my partner?

Once the police charge your partner with a crime, a court date will be set. There might be many court dates before your partner's matter is resolved or goes to trial. You do not usually have to go to these court dates before trial. If you do need to go, you will be given a **subpoena**.

Subpoena: a document that orders you to go to court on a specific date.

If the case goes to trial, you will be given a subpoena and you will have to appear as a witness. You will not have to prove that your partner abused you. That is the job of the **Crown Attorney**, who will decide how to proceed with the charges. [See page 41](#).

Crown Attorney: a government lawyer who presents the case against the person accused of a crime in criminal court. They work for the government and are not the victim's lawyer.

If your partner threatens you to try to make you drop the charges, you should tell the police. Your partner might be charged with another offence, such as:

- failing to comply with the conditions of his release,
- obstructing justice,
- uttering threats, or
- making indecent or harassing phone calls.

III What happens after the arrest?

If your partner is arrested and charged, he will be taken to the police station. Depending on what happened, he might be released right away. There will likely be conditions on his release, however.

Ask the police to tell you when your partner is being released. They might not automatically do this. You can also ask the Victim/Witness Assistance Program (VWAP) to help you get this information.

Victim/Witness Assistance Program

There is a VWAP in or near the court in all 54 court districts in Ontario. The program's staff will help you understand the court process and give you updates on the court case. They will help you communicate your needs to the Crown Attorney and the police. In some cases, they can set up a pre-trial interview with the Crown Attorney. But they cannot discuss the evidence in the case with you.

They can let you know what to expect on your court date, and might give you a tour of the court. They can also ask for a copy of your police statement for you to review before the trial. They can refer you to other services that might offer you support, such as help planning for your safety.

Throughout the court process, the staff can also give you emotional support. To find the VWAP in your area, you

can call the Victim Support Line at **1-888-579-2888**, or search the online Victim Services Directory at services.findhelp.ca/ovss.

Agreements and conditions

Sometimes, the police will release your partner after he signs a written agreement to appear in court at a later date, and to follow certain conditions. There are different types of releases and many kinds of conditions. [See page 33](#).

Important: If you fear for your safety, tell the investigating officer. Ask for a **no contact condition** to be put on your partner's release, and to be notified as soon as there is a decision to release him. This is a common release provision in domestic violence cases.

No contact condition: a requirement that your partner not contact you.

If you want to have some contact with your partner, you should also tell the investigating officer. The court usually orders a no contact condition unless you ask to have some contact. And, in some cases, the court might still order a no contact condition even if you ask for contact.

The police might hold your partner until they can take him to court for a bail hearing if they believe that he will not show up for his trial or that he might commit another offence.

III What is a bail hearing?

If the police have concerns about releasing your partner, they must take him to court for a **bail hearing**. The judge or justice of the peace will decide whether to release him while he waits for his trial, or to keep him in custody until the trial.

Bail hearing: when the person charged with a crime goes to court after they have been arrested. At court, they ask a judge or a justice of the peace to decide whether the police can continue to keep them in jail, or whether they must let them go.

The person may be let go with “conditions” that they must follow. For example, the court might order them to stay away from their partner.

Important: You do not have to go to the bail hearing.

Tell the investigating officer what you want the court to know about your partner. You can ask for conditions you want on his release either when you give a statement, or as soon as possible after that. This is important, especially if you feel afraid. If you need help explaining your concerns, you can call VWAP, a shelter, or a Sexual Assault/Domestic Violence Treatment Centre for help.

If your partner is held for a bail hearing, staff from VWAP will try to call you before he is released to ask you for information, such as safety concerns, that you would like the Crown Attorney to know. It is important for you to give the police an up-to-date phone number so that they can call you.

If your partner is not released and he waits in jail for his trial, the court can order that he not communicate with you or your children. If you want this type of no contact condition, tell the police or VWAP staff.

If the court made a no contact condition and your partner contacts you or the children, call the police.

III Can my partner be released?

Your partner can be released in several different ways while he waits for his trial. There are different names for each type of release. He might be released on:

- **An undertaking with conditions:** This is your partner's written promise to appear in court on a future date. It has conditions. This agreement is usually made at the police station.
- **A recognizance without sureties:** This is a document your partner signs that guarantees he will pay the court a fixed amount of money if he does not appear for his court date, or if he breaks any conditions of his release.
- **A recognizance with sureties:** This is a document your partner and his **surety** sign. This document guarantees that the surety will pay the court a fixed amount of money if your partner does not appear at his court date, or if he breaks any conditions of his release.

Surety: someone who agrees to be responsible for a person who is charged with a crime and gets out of jail on bail before their trial.

- **A promise to appear:** This is your partner's written promise to appear in court on a future date. It has no conditions and is not used very often in domestic violence cases.

He can also be released on bail. A recognizance is sometimes called a guarantee or a bond.

Finding out about release and conditions

Important: Whether your partner is released on an undertaking or recognizance, the conditions set by the court are the most important.

For example, your partner might be released with these types of conditions:

- a no contact condition that he not contact you at all
- a no contact condition that he cannot contact you, except through another person that you both agree on, if he wants to see the children
- that he not contact the children, except as noted in a family court order, or if the Children's Aid Society you are dealing with allows this contact
- that he not go near certain places, including your home and your workplace
- that he live with his surety
- that he not use alcohol or drugs

- that he report to the police station regularly
- that he continue any counselling program he is already attending
- that he not possess any weapons

In most areas, police are primarily responsible for telling you when your partner is released on bail. If you would like to know the outcome of a bail hearing, you can also contact VWAP or the court administration office. A Victim/Witness Services Worker can explain the conditions of your partner's release. You can also ask VWAP or the court administration office for a copy of the court order with the conditions.

[See page 30.](#)

If your partner is held in jail, you can also register with the Victim Notification Service so that you will get notified when your partner is released. You can call the Victim Support Line at **1-888-579-2888** or **416-314-2447** in Toronto, and ask for this service.

Family court orders

You should tell the police and the Crown Attorney if you have a family court order. For example, you might have a court order that says that your partner has access to the children. If the Crown Attorney does not know about this order, your partner's bail conditions could say something different.

You should also tell the family court or your family lawyer that your partner was arrested and has been released with conditions. Talk to your lawyer about how to make access

arrangements that are safe for you and the children. For example, the family court could order that any access to the children be supervised, or that parents are supervised when they drop off or pick up their children. [See page 69.](#)

III What happens if my partner breaks a condition?

If your partner does not obey a condition, call the police. He might be arrested and held in custody until his trial, or he might be released with new and tougher conditions. He can be charged with another crime called **breach of recognizance**.

Breach of recognizance or **failure to comply with a condition of undertaking or recognizance**: a crime where your partner does not follow the conditions set out by the court.

Follow your safety plan. His breach is a warning that you need to be careful and take steps to protect yourself.

If he wants to come home

If your partner returns home, he might be breaking one of the conditions. His return could also put you and your children in danger.

You might feel pressured to take your partner back. For example, you might be afraid or intimidated about not doing what your partner wants. He might have promised to give you custody of the children if you drop the conditions.

Your family or your partner's family might be pressuring you to take him back. Or you might want him to return home. These situations can be complicated.

If you are thinking of letting your partner come home, you should talk to a VWAP worker or a lawyer as soon as possible. [See page 30.](#)

III Which court will hear the case?

If your partner assaulted you and you report it to the police, it becomes a criminal law matter. The Ontario Court of Justice handles most criminal matters. The Superior Court of Justice handles the most serious criminal offences.

Domestic violence court

There is an Integrated Domestic Violence Court at the Ontario Court of Justice. It is located at 311 Jarvis Street in Toronto. It provides one judge to hear both the family law and criminal law cases that involve partner abuse.

However, this court cannot hear cases that involve divorce, property division, or child protection. It is also only available if you live in Toronto.

The goals of this court are to:

- provide a more integrated approach to families experiencing domestic violence
- increase consistency between family and criminal court orders

- more quickly resolve the court proceedings

Court-ordered protection

You can apply for a **peace bond** to keep your partner away. This is done in **criminal court**. It can include conditions. For example, your partner can promise not to contact you or your children. A criminal court judge or a justice of the peace can make a peace bond. [See page 60.](#)

Peace bond: a court order that is a signed promise to keep the peace and be of good behaviour.

Or, you might be able to apply for a **restraining order** to keep your partner away. This is done in **family court**. Family court also deals with support, custody, access, divorce, and dividing family property. [See page 53.](#)

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

III What can happen before the criminal trial?

Pleading guilty

After your partner is charged, he can plead guilty at any stage of the court case.

Sometimes the Crown Attorney and your partner's defence lawyer might negotiate what charges your partner will plead guilty to. If they do, they will also tell the judge what sentence they think is fair. A sentence is the punishment he gets for his crime. The judge will make the final decision about what the sentence will be.

The Crown Attorney considers a number of things when negotiating the proposed sentence. These include the strength of the case, if there were any injuries, and whether or not your partner regrets what he did. The Crown Attorney usually asks what you think. But they do not need you to agree to the sentence. [See page 48.](#)

Withdrawing charges

The Crown Attorney can also decide to change or withdraw the charges. For example, if the Crown Attorney learns of other serious things your partner has done, they could charge your partner with those things. Or, if the Crown Attorney thinks the evidence is not strong enough to support the charges that have been laid, they can reduce or withdraw the charges. This could happen if the Crown Attorney thinks you will not be a good witness at a trial.

In some situations, the Crown Attorney will withdraw the charges if the accused person agrees to sign a peace bond. The peace bond might include a condition that your partner is not allowed to come near you.

Early intervention

The courts have a program called **early intervention**. It can be offered as a way to resolve a partner abuse case without going to trial. It helps first-time offenders have their case resolved quickly by either pleading guilty or entering into a peace bond. To qualify, the offender cannot have caused significant injuries or used a weapon during the assault.

The offender must be willing to take a 12-session Partner Assault Response (PAR) program. The PAR program holds offenders responsible for their actions. It also helps them learn to resolve conflict in non-violent ways.

If your partner enters the PAR program, staff from the program lets you know. They ask you about your safety, and tell you about services and supports you might need. The staff tells you what is being taught in the PAR program.

Usually, your partner is not allowed to live at home as a condition of their release. But, in some cases, if you agree, your partner can return home during the program. You must give your consent, which you can take away at any time and for any reason.

Offenders can also enter a PAR program as part of their probation.

Part 4: The criminal trial

III What happens at the trial?

The criminal trial takes place in a courtroom that is usually open to the public. Formal rules are followed. For example, everyone must stand when the judge enters or leaves the room.

Children at court

Try to find someone to care for your children while you are at court. You can spend a lot of time waiting, which can be difficult for children. Usually, children are not allowed in the courtroom because they might disrupt the proceedings. Children can also be very upset by what happens at court.

The Crown Attorney's role

Criminal cases are between the person charged with a criminal offence and the government. A **Crown Attorney** represents the government in a criminal trial.

Crown Attorney: a government lawyer who presents the case against the person accused of a crime in criminal court. They work for the government and are not the victim's lawyer.

The police gather the evidence. The Crown Attorney must use the evidence to present the case against your partner.

This usually includes deciding who to call as a witness in court. You will be called as a witness if your partner is charged with a crime related to his abuse of you.

The time between arrest and trial can be very long. There might be many court appearances before a trial. You do not usually have to go to these court dates before trial. If you do need to go, you will be given a **subpoena**.

Subpoena: a document that orders you to go to court on a specific date.

Important: Contact the Victim/Witness Assistance Program (VWAP) to get help and support before you go to court. [See page 30.](#)

Trial procedure

At the trial, the Crown Attorney presents their case first. Then your partner's lawyer presents the case for your partner. Each side presents evidence and witnesses to support their version of the event.

Each witness must swear an oath on a holy book, or affirm (promise) that they will tell the truth. In some places, Indigenous witnesses can use an eagle feather to do this, if they prefer.

III What if I am asked to testify?

The victim's testimony is always important. It is usually needed to get a conviction. This is because in a case of family violence, the victim is often the only person who was present during the abuse.

Before the trial, the Crown Attorney will probably introduce themselves to you. They will also tell you about the trial process, the evidence they have, and when they will call you to testify. If you gave a statement to the police after you were assaulted, a police officer will probably give you a copy of your statement to review before the trial.

If you have been given a **subpoena**, you must go to court. If you do not go to court to testify on that date, the Crown Attorney can ask for a **warrant** for your arrest. This does not happen very often, but if it does happen the police can arrest you and bring you to court.

Subpoena: a document that orders you to go to court on a specific date.

Warrant: a document that allows the police or immigration authorities to arrest you.

Preparing to testify

VWAP can help you get a meeting with the Crown Attorney. They can also let you know what you can expect in court, and might be able to give you a courtroom tour.

See page 30.

Important: If you gave a statement to the police, you can ask to read or watch it again before you go to the trial. This will help you remember what you said, before you testify in court. You will probably not be able to keep the statement with you while you testify.

Sometimes, an abuser makes threats to try to stop his partner from testifying in court. For example, your partner might threaten to take the children from you. If he does this, call the police. He can be charged for making this type of threat.

Testifying in court

You might want to get to the court at least one hour before the trial is scheduled to start, so you can get settled and speak with anyone you need to.

Usually, you are the first witness to tell the judge what happened. The Crown Attorney will ask you questions and you must answer them. Take your time and answer the questions carefully and honestly. Do not worry about hesitating before you answer. If you do not understand the question, ask to have it repeated. If you do not know the answer to a question or do not remember, tell the Crown Attorney.

When the Crown Attorney is finished, your partner's lawyer will ask you questions. These questions are usually harder to answer, because the defence lawyer might challenge what

you say and try to make your story less believable. They might also try to suggest answers that can weaken the case and make the judge believe that:

- you are making up what happened
- you were hurt by someone else, not your partner
- you tried to hurt him first and he acted in self-defence
- you are unreasonable or unstable
- your story is not believable
- you are doing this so you can get custody of the children
- you are doing this to try to get money from the Criminal Injuries Compensation Board. [See page 97.](#)

You have to answer the questions unless the Crown Attorney objects and the judge decides that you do not have to answer. Answer each question honestly, clearly, and completely. Try not to give more information than is asked for.

Your partner or his family might try to intimidate or bother you. If you are concerned, tell the investigating police officer, court security, or someone at the VWAP.

Other witnesses might testify after you do. They will be asked to wait outside the courtroom until they are called so they will not be influenced by what you and other witnesses say. Witnesses can include doctors, police officers, the person who took pictures of your injuries, or neighbours who saw or heard the incident.

After you finish testifying, you can leave the courthouse. You might choose to stay and watch the rest of the trial, but you do not have to stay.

If you need support during the trial, you can bring someone to court with you. Talk to VWAP about other things that can be done to help you feel more comfortable. [See page 30.](#)

III What documents will my partner get to see?

If your partner is charged with a crime, his lawyer gets **disclosure**. The Crown Attorney will have to show his lawyer any statements, photographs, or other information that was given to the police by you or other witnesses.

Disclosure: sharing of all documents, evidence, or information that the police and Crown Attorney have.

In sexual assault cases, there are rules about using your personal records, including medical, counselling, or therapy records, and personal journals and diaries. To get a copy of these records, your partner's lawyer must apply to the court and ask for them. These applications have very strict rules. The defence lawyer must prove to the court that your partner cannot make a proper defence without the records and that their disclosure will not significantly invade your privacy.

You can hire a lawyer to challenge the application for your records. You can apply for a **Legal Aid certificate** to help pay for a lawyer if you qualify financially. [See page 104.](#)

Legal Aid certificate: a document that says Legal Aid Ontario has agreed to pay for a certain number of hours of a lawyer's time to work on your legal issues. Not all lawyers accept these certificates. You have to find a lawyer who agrees to work for you and agrees to accept your certificate. You can find a lawyer who accepts Legal Aid certificates online at www.legalaid.on.ca/en/getting/findingalawyer.asp.

If Legal Aid Ontario denies your application for a certificate, you can contact VWAP staff or the Crown Attorney's Office for help getting a lawyer.

III Can he make excuses to defend himself?

Your partner has the right to decide whether or not to testify. If he chooses to testify, the Crown Attorney will be able to ask him questions. He might try to defend his actions by saying that you started the fight or that he was drunk. This will not excuse his criminal behaviour. He cannot say he was acting in self-defence if he could have protected himself with less force than he used.

It is up to the judge to decide if your partner is guilty.

III What sentence could he get?

If your partner is found guilty, the sentence that he gets will depend on the seriousness of the crime. It will also depend

on other things, such as whether he has a previous criminal record. Abusing a child is something that can increase the sentence.

Victim impact statement

Before your partner is sentenced, you can tell the judge about the effect his violence has had on you and your family. You can do this by preparing a **victim impact statement**.

Victim impact statement: a statement where you tell the court about how you feel about the crime and how it has affected you.

Both the police and VWAP staff can help you prepare this statement. They can also advise you about the best time to complete it. The Crown Attorney must give it to your partner's lawyer. You can be asked about it, although this is not very likely. But you should know that your statement could be used in any family court case that happens after the criminal trial.

Kinds of sentences

At the sentencing hearing, a person who has been found guilty might receive a "discharge". This means that they have been found guilty, but the judge did not give them a criminal record. A discharge can be ordered with or without conditions of probation.

If the judge believes a criminal record is necessary, a person who is convicted of a charge related to domestic violence can be:

- sent to jail for a specific amount of time
- given a “suspended sentence”, for which conditions are imposed under a term of probation
- ordered to serve a “conditional sentence”, which is a jail sentence served in the community with strict conditions, such as house arrest
- ordered to pay a fine
- ordered to pay **restitution** to cover the victim’s costs for property loss, damage, or personal injury

Restitution: money paid by a person found guilty of a crime to the victim or victims of that crime.

Orders to pay a fine are rarely used. Restitution is usually only ordered if your partner damaged your property.

Probation

A judge can order that your partner obey specific conditions for a certain period of time as part of his sentence. This is called probation. Many sentences include probation. The probation can be ordered to follow the time spent in jail, or right away if the sentence does not include jail time.

Probation conditions

If your partner is given a sentence with a term of probation, conditions are imposed. The conditions can require that your partner:

- not contact you directly, or through someone else
- only contact you if you give your consent in writing to their probation officer, which you can take away at any time
- not come within a certain distance (for example, 100 metres) of your home, workplace, or any place that they know you are at
- only contact you and the children as said in a family court order
- support you or your children financially
- report to a probation officer regularly
- not use alcohol or drugs
- go to, and actively take part in, treatment or counselling for substance abuse, partner abuse, or anger management
- not own or carry a weapon

VWAP, the Crown Attorney, or court staff can give you a copy of the probation order.

If you have a family court case, you should tell your family law lawyer or the family court about the conditions of probation. This is important if a family law order has to be changed because of the conditions of probation.

III What if he is found not guilty?

The Crown Attorney has to prove the case **beyond a reasonable doubt** for your partner to be found guilty. He might be found not guilty (acquitted) even if the judge believes your testimony.

Beyond a reasonable doubt: the standard or legal test of proof that is required in a criminal law case. For someone to be found guilty of a crime, the evidence must show that there is no reasonable explanation for what happened other than that the accused did it.

Even if your partner is found not guilty, the judge can order him to have no contact with you and to sign a **peace bond**. The peace bond can include conditions like those on bail or probation orders.

Peace bond: a court order that is a signed promise to keep the peace and be of good behaviour.

If your partner is not put in jail, you need to make a safety plan for when you leave the court.

Part 5: Protecting yourself

You have to make decisions about your safety.

As well as testifying against your partner in criminal court, you might want to bring actions against him in other courts. For example, you might want to start a family law case against your partner.

In most criminal cases, the **Crown Attorney** is in charge of the case. You only testify as a witness.

Crown Attorney: a government lawyer who presents the case against the person accused of a crime in criminal court. They work for the government and are not the victim's lawyer.

At family court, you are in charge of your own case. You hire a lawyer to represent you, and the lawyer takes direction from you. You can ask for civil protection orders to help protect you and your children. For example, you can ask for a **restraining order** or an order for **exclusive possession** of your home.

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

Exclusive possession: a court order that says one partner can stay in, or return to, the home and the other partner is not allowed on the property. If there are children, the order usually also says 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 partner can stay in it.

Family court orders

What is a restraining order?

A restraining order is a family court order that says what a person cannot do. What is included in the order depends on your situation. For example, it can say one or more of these things:

- your partner cannot come within 500 metres of you and your children
- your partner cannot talk to or contact you or your children except through an agency or another person
- your partner cannot come within 500 metres of your home and work

You might be able to get a restraining order even if your partner has never been charged with a crime, if the charge has not been dealt with, or the criminal court did not find him guilty.

Your lawyer can ask the court for a restraining order. If you need a restraining order right away, go to your nearest family court and ask for help from the duty counsel or advice counsel lawyer. You might also be able to get help from a Family Court Support Worker. [See page 101.](#)

A restraining order is made in family court. But breaking any of the conditions in the order is a criminal offence. If your partner breaks any of the conditions, he can be arrested by the police, charged, and held for a **bail hearing**. [See page 32.](#)

Bail hearing: when the person charged with a crime goes to court after they have been arrested. At court, they ask a judge or a justice of the peace to decide whether the police can continue to keep them in jail, or whether they must let them go.

The person may be let go with “conditions” that they must follow. For example, the court might order them to stay away from their partner.

One advantage of a restraining order is that it can be made for a certain period of time, even for several years.

Who can apply

You can usually only apply for a restraining order against your partner **if at least one** of these is true:

- you were married to your partner
- you lived together with your partner for any period of time
- you have a child with your partner

If none of these situations apply to you, you could ask for a **peace bond**. Anyone can apply for a peace bond.

[See page 60.](#)

Peace bond: a peace bond is a type of court order that is a signed promise to keep the peace and be of good behaviour.

Conditions in a restraining order

Think about what kind of protection you need. For example, you can ask the judge to order your partner to stop calling you, or stop having his friends or relatives call you for him. Sometimes, the judge might order that your partner cannot come within a certain distance of your home, workplace, or the children's school. All of these conditions and others can be part of a restraining order.

Applying for a restraining order

To apply for a restraining order, you will have to fill out some written documents, including an application and a Canadian Policy Information Centre Restraining Order Information Form. This form includes information about your partner that makes it easier for the police to identify him. The judge marks a box beside the conditions that apply to your case. The judge might also write in any additional conditions.

If you are applying for a restraining order without a lawyer and you need more information, you can read **A Self-Help Guide: How to make an application for a restraining order**. You can view this guide at www.attorneygeneral.jus.gov.on.ca/english/family/guides/restraining_order. If you need help with this application, contact a shelter or community legal clinic or talk to duty counsel.

After you get a restraining order

Keep a certified copy of the restraining order with you at all times. The police need to see the restraining order before they can do anything if your partner does not follow it.

You might also want to give a copy to others. For example, if there is a condition that your partner cannot contact your child, you should give a copy of the restraining order to your child's school so that they can show it to the police if your partner tries to pick up your child from school.

What about access to the children?

If you are worried about whether your partner will take care of the children properly, the judge might order **supervised access**. Depending on where you live and the availability of a supervised access centre, you might have to find a friend or family member you can both trust to supervise visits with the children.

Supervised access: a kind of access where someone else watches when a parent visits with their child. The purpose is usually to make sure the child is safe.

If you are worried about your safety when picking up or dropping off your children at access time, the judge might order **supervised access exchanges**. These exchanges might take place at a supervised access centre, if one is available. Or they might be supervised by a friend or family member. The exchanges could also happen in a public place, where it will be more difficult for your partner to abuse you.

Supervised access exchanges: when someone watches a parent pick up or drop off the child, but does not watch the access visit. Its purpose is usually to reduce conflict between the parents, or to protect one parent from being abused by the other parent.

What are exclusive possession orders?

You can apply to the family court for an order for exclusive possession of your home. This is a court order that says one partner can stay in, or return to, the home and the other partner is not allowed on the property. If there are children, the order usually also says that the children are allowed on the property. The order is usually temporary. The court does not decide who owns the home or who rented it when deciding which partner can stay in it.

An order for exclusive possession does not stop your partner from contacting you at work or anywhere else. It also does not mean that he gives up his part of the ownership of the home.

What the judge considers

You or your lawyer must file an application in family court to request an order for exclusive possession. Before making the order, the judge will consider a number of things:

- the best interests of the children, including the effect that a move might have on them, and how they feel about moving or staying
- the children's attachment to the neighbourhood, including how long they have lived there, if they are in school, and their attachment to friends
- any violence committed against you or your children
- you and your partner's financial situations
- any written agreements between you and your partner
- the availability of other suitable and affordable accommodation

You can get an order for exclusive possession for a house or apartment. You can get it even if only your partner owns or rents it. But, it might be more complicated if you are renting and your name is not on the lease. If you are in this situation, get legal advice.

Orders for exclusive possession usually apply to partners who are legally married. If you are in a common-law relationship, it is harder to get an order for exclusive possession. It partly depends on whose name is on the deed or lease. If you are in this situation, you should get legal advice.

Orders for women on reserve

First Nations women living on reserve can have a hard time getting some family court orders enforced. This is because different laws can apply on reserve lands. For example, the Ontario law on exclusive possession does not apply on reserve lands. Each First Nation might pass its own laws about family property rights. If they do not, there is a federal law about how to divide the value of a family home on a reserve and who can live in the home. [See page 90.](#)

Can I get an order if my partner is not in court?

Judges usually make important decisions that affect people's rights when those people are in court. This allows them to tell their side of the story. If there is a court proceeding against your partner, he will usually get notice of the proceeding so that he gets the chance to respond. But in dangerous situations, a judge might make exceptions.

For example, if you are asking for an order for exclusive possession or a restraining order because your partner is dangerous, your lawyer can apply to get the order **without notice**.

Without notice or **ex parte order**: a court order that was made without telling your partner beforehand that you were asking the court for an order.

This type of order only lasts for a short time. It gives you some protection right away. After the court makes this type of order, your partner can come to court to respond.

III Criminal court orders

What is a peace bond?

A peace bond is a court order that is a signed promise, in writing, to keep the peace and be of good behaviour. It can include conditions. For example, your partner may promise not to contact you or your children.

Anyone can apply for a peace bond under section 810 of the Criminal Code. These peace bonds are sometimes called “section 810 peace bonds” or “810 recognizances”.

To apply for a peace bond, you must go to criminal court and explain why you need a peace bond. For example, you should tell the court why you are afraid that your partner might hurt you, your children, your property, or your pets.

A section 810 peace bond can last for **up to one year**. If you need to be protected after your peace bond ends, you have to apply for another one.

Applying for a peace bond

To get a peace bond, you need to go to criminal court. Usually, you need to ask a justice of the peace (JP) for a peace bond. To find a JP, call your local courthouse or go to www.ontariocourts.ca/ocj/how-do-i/find-a-justice-of-the-peace.

You need to tell the JP why you think you need a peace bond. If the JP thinks there is enough evidence for your application to go to court, they will issue a **summons** to your partner to appear in court on a specific date.

Summons: a document that orders your partner to go to court on a specific date.

If your partner does not agree to a peace bond, there might be many delays before the court decides whether to give you a peace bond at a hearing. You should make a safety plan for you and your children.

At a hearing, you have to tell the court why you think you need to be protected from your partner. Your partner also gets a chance to tell the court their side of the story. The court looks at the evidence and decides whether or not they should order a peace bond and what conditions it should include.

You can have a lawyer represent you in court. Usually, you have to come to court to tell your side of the story. But you do not have to come if your partner agrees before the court date to sign a peace bond.

Important: Sometimes a JP or criminal court judge will suggest that both partners sign a peace bond. This is called a “mutual” peace bond. Never agree to sign a mutual peace bond without getting legal advice first. It would mean that you must follow the same conditions as your partner. An abusive partner might try to get you to break a condition and then call the police to report you.

Conditions in a peace bond

Even though it is a court order, the peace bond will not give your partner a criminal record. But if your partner breaks any of the bond's conditions, call the police. Your partner might be charged with breaching a peace bond, which is a criminal offence. If he is found guilty, he can be sentenced to time in jail.

Peace bonds are entered on the police information computer system. The police can arrest anyone who breaks any of the conditions.

After you get a peace bond

Keep a certified copy of the peace bond with you at all times. The police need to see it before they can do anything if your partner does not follow the peace bond.

You might also want to give a copy to others. For example, if there is a condition that your partner cannot contact your child, you should give a copy of the peace bond to your child's school so that they can show it to the police if your partner tries to pick up your child from school.

How can I have an order enforced?

A police officer can arrest anyone who does not follow a peace bond or a restraining order. Call the police immediately if your partner violates an order.

Is there other protection available?

Victim Crisis Assistance Ontario (VCAO) is available across the province. It provides support in case of a crisis. It also helps protect the safety of individuals and families who are at risk of experiencing violence by a former partner.

Services include:

- safety planning
- follow-up client contact
- referrals to other services
- providing a cell phone programmed to call 911

For more information, and to find the VCAO agency in your area, call the Victim Support Line at **1-888-579-2888**, or search the online Victim Services Directory at services.findhelp.ca/ovss.

Part 6: Your rights under family law

Whether or not you are legally married, you and your children have certain rights under Ontario's family laws. If you were married and want a divorce, the federal Divorce Act also applies. These laws deal with things like:

- custody of the children
- where the children will live
- access between parents and children
- dividing up family property
- financial support for you and the children

Making an application in family court is different from being a witness in a criminal proceeding. In family court, it is better to have a family lawyer to represent you. You are in charge of your case, and your lawyer takes direction from you.

Three courts deal with family law issues in Ontario:

- Ontario Court of Justice
- Superior Court of Justice
- Family Court branch of the Superior Court of Justice

The Ontario Court of Justice includes the Integrated Domestic Violence Court located in Toronto. [See page 37.](#)

Only the Family Court branch of the Superior Court of Justice can deal with all family law issues. If this court does not exist where you or your children live, you should call the courthouse in your municipality to ask which court

you should go to. Go to www.attorneygeneral.jus.gov.on.ca/english, click on “Court Services” and then “Court addresses” .

It is important that you go to the right court.

III What is custody?

Custody is about who will make important decisions about the care of a child. A parent who has sole custody can make important decisions about a child’s care, education, health care, and religion. If the parents have joint custody, both parents must agree on important decisions that affect their child.

For joint custody to work well, parents have to be able to communicate and work together. If your partner is abusive or controlling, you should not agree to joint custody.

Your lawyer needs to know about the abuse in your relationship so that they can explain why an order or agreement might not be appropriate if your partner will use it to intimidate or threaten you. Arrangements need to be very clear.

Abusers might want joint custody so that they can still have some control over you, because joint custody forces you to agree before making major decisions about your child. This can include things like where your child goes to school, where they go to the dentist, and if your child can go out of the country.

Custody is **not** about who your child lives with, which is sometimes called “residence”. It is also not about how much time your child spends with each of you, which is sometimes called “access” or “parenting time”.

The terms “shared parenting” or “co-parenting” are sometimes used to mean the same thing as joint custody. But shared parenting is about the amount of time each parent spends with a child. Be sure you understand what is being suggested before you agree to it.

III How do I get custody of the children?

Whether you stay in the home with your children or take them with you when you leave, you need to speak to a family lawyer right away about custody. If you have to leave your community because your partner might hurt you or your children, you might be able to apply for custody in the area you have moved to. Many courthouses may help you with custody issues right away if you can show that a delay could harm either you or your children.

If your children are living with your partner when you go to court and get a custody order, you can ask the court to order the police to bring the children to your home.

If you are legally married and want custody of your children, but do not want to leave your home, you might need to get an order for **exclusive possession**. It is more difficult to get this order if you are not legally married. But, you might be able to get a **restraining order** that has the same effect.

Exclusive possession: a court order that says one partner can stay in, or return to, the home and the other partner is not allowed on the property. If there are children, the order usually also says 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 partner can stay in it.

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

III How does the court decide who gets custody?

The judge looks at what is in the best interests of the children when deciding custody, residence, and access. They will consider things like:

- who has been the main caregiver for the children
- who the children are closer to
- how you and your partner plan to care for the children in the future
- who can offer the most stability for the children
- how each of you will help the children maintain their relationships with the other parent

Family courts believe that it is usually best for children to have as much contact as possible with both parents. Depending on the situation, including the children's ages, the judge might want to hear their wishes too.

Important: The judge must also consider whether the parent who wants custody or access has been violent or abusive to their partner, family member, or any child in the past.

For more information, see the CLEO publication [Separation and Divorce: Child Custody, Access, and Parenting Plans](#). Go to www.cleo.on.ca.

Access orders

If you do not have custody, you still have a right to see your children and to get information about them, unless the court has refused you access. Most judges do not deny access to a parent unless it is clear that the parent has abused or neglected their children and that the children are still at risk. In some cases, a judge might also deny access in other situations, such as if an older child has a strong wish not to see that parent.

If you have custody of your children, you cannot deny access to the other parent unless the court orders that there be no access or that you can decide if there is access. Otherwise, you cannot stop the other parent from seeing the children at arranged times unless you think it would not be safe. For example, if your partner has been drinking

or using drugs, you can stop him from driving the children somewhere. If you deny access, contact your lawyer or a duty counsel at your local family court right away.

You cannot deny access because the other parent has not paid child support.

Supervised access

If you are worried about your children's safety, a judge might order **supervised access** or **supervised access exchanges**. There are more than 50 supervised access facilities in Ontario. To find if there is one in your area, go to www.attorneygeneral.jus.gov.on.ca/english/family/supcentres.php. You can also call **1-877-661-9977** or **416-212-2028** in Toronto. You can often find brochures about supervised access at the court.

Supervised access: a kind of access where someone else watches when a parent visits with their child. The purpose is usually to make sure the child is safe.

Supervised access exchanges: when someone watches a parent pick up or drop off the child, but does not watch the access visit. The purpose is usually to reduce conflict between the parents, or to protect one parent from being abused by the other parent.

If there is no supervised access centre in your area, you might have to find and agree on an appropriate supervisor. This could be a relative or friend that both you and your

partner trust. Many women have difficulty finding and agreeing on an appropriate supervisor. Speak to your lawyer if you think this will be a problem.

Enforcing orders

If your children are in school or daycare, and you think your partner might try to take them from there without telling you, talk to the staff immediately. Give them a copy of any court orders. If you have a custody order that says your partner cannot pick up the children at school, the staff should refuse to let your partner take them. If the order says that he has access to the children on certain days at specific times, the school should not give them to him at any other time.

If the court has made a custody or access order and your partner is not cooperating, a lawyer can help you enforce the order or change its conditions.

Non-removal orders

Courts can also make a **non-removal order**.

Non-removal order: a type of court order that says that one or both parents cannot take a child out of a certain area, such as Ontario.

If your partner has threatened to leave with the children, see a lawyer as soon as possible. Ask your lawyer about getting a non-removal order.

If you are afraid that your partner might take the children out of the area immediately, and you do not have time to find a lawyer, go to the nearest family court or Ontario Court of Justice. Ask for help from the duty counsel or advice counsel lawyer.

If you leave your home and can do so safely, try to take your children's passports, permanent residence cards, and other travel documents with you.

Taking the children out of Canada

Neither parent can take the children out of Canada without an agreement with the other parent or a court order. If your partner has threatened to take the children out of Canada, you should see a lawyer right away. If you think he might have already taken them out of the country, call the police immediately.

The Hague Convention is an international law that provides some protection against child abduction. However, it does not apply in many parts of the world. Even where it does apply, getting a child back from another country is time consuming, expensive, and complicated.

You can find helpful information about international abduction of children at www.travel.gc.ca/assistance/emergency-info/child-abduction-welfare.

III How do I get child support?

Whether you are legally married or living common-law, your partner must pay child support if the children are living primarily with you and he has more than a minimal income.

The court will use the **Child Support Guidelines** to calculate the amount of child support your partner must pay you. The amount is based on things like the income of the person paying support and the number of children they have to support. This amount is sometimes called the “table” or “base” amount of child support.

Child Support Guidelines: rules that are used to calculate how much child support a parent pays each month to help support their child financially.

In some cases, the court will order child support that is based on a higher income than what your partner says that he makes. For example, the court might do this if your partner earns income in cash that they do not report on their income taxes.

Your partner might also have to contribute toward special or extraordinary expenses. For example, if your child is in daycare, or has special needs, your partner might have to pay extra amounts of child support to contribute to these costs. These amounts are in addition to the table amount of child support. These expenses are divided between you and your partner.

Child support amounts

The amount of child support you receive can be affected by the amount of time the children are in the other parent's care. Talk to a lawyer about how your children's living arrangements can affect the amount of child support you might get.

Either you or your partner can go to court to change the amount of child support. For example, if your partner loses their job, they can ask to have the amount of child support reduced. Or, if you know your partner's income has increased, you can ask to have the amount of child support increased.

A lawyer can explain the Child Support Guidelines and other things that might affect your situation.

For more information, see the CLEO publication [Separation and Divorce: Child Support](#). Go to www.cleo.on.ca.

III Can I get support for myself?

You might be able to claim spousal support from your partner. If you were not married, you must have lived together for at least 3 years. Or, you must have had a child together and were in a relationship of "some permanence".

The court looks at a number of things when deciding whether to order your partner to pay spousal support. These include:

- the needs and financial situation of each partner
- the length of the marriage or relationship
- the role each of you played during the marriage or relationship (for example, if one of you stayed at home to look after the children)
- the effect of these roles on each partner and their current financial position
- whether your partner signed an immigration sponsorship agreement

The court wants each partner to eventually be able to take care of themselves, if possible. For example, if the judge thinks you will be able to go back to work someday, the amount of support you receive might decrease over time, and then end.

If your partner is receiving social assistance, you are not likely to get an order for spousal support.

For more information, see the CLEO publication [Separation and Divorce: Spousal Support](#). Go to www.cleo.on.ca/en/publications/spousalsupport.

III How are support orders enforced?

The Family Responsibility Office (FRO) is a government agency that enforces both child and spousal support orders.

The FRO can take money from the pay or wages of the person paying support. They must have a job with regular paycheques to do this. The FRO can also collect money from

people's bank accounts and tax returns. It can suspend a person's driver's licence or passport if they are not making the required support payments.

The FRO posts information at www.goodparentspay.com about people who have not paid support for more than 6 months. They do this if they cannot find the person.

For more information about enforcing a support order, go to www.mcsc.gov.on.ca/en/mcsc/programs/familyresponsibility. Or call the FRO at **1-800-267-7263** or **416-326-1818** in Toronto. The TTY number is **1-866-545-0083**.

III How do we divide our property?

Couples who are legally married have a right to a share in the value of their property if they separate or divorce. Property includes money, assets, cars, RRSPs, pensions, or anything else that can be exchanged for money. Debts like lines of credit, loans, or credit cards are also considered when a married couple separates or divorces.

You should talk to a lawyer. They will help you make sure you apply for your share of the family property within the time limit. They will also help you figure out what you should receive.

Common-law partners do not automatically have a right to share family property. Sometimes a common-law partner can be given some property if they can show that the other person has been **unjustly enriched** by the relationship.

Unjustly enriched: a legal claim where one partner tries to show that it would be unfair to allow the other partner to leave the relationship without sharing their property. This can be very hard to prove.

An example of this is if a partner is not named as an owner of the home but made regular mortgage payments and paid for home renovations. Another example is if a person worked for free in their partner's business, or did all the child care or housework so that their partner could build their business.

If you lived common-law and you are a registered part-owner of the family home, you do not lose your right to ownership when you leave. See a family lawyer as soon as possible to find out how to protect your interest in the home.

For more information, see the CLEO publication [Separation and Divorce or Death of a Spouse: Property Division](#). Go to www.cleo.on.ca.

III Can I get a divorce?

In Canada, you do not have to show that your partner did something wrong to get a divorce. You only have to show that the marriage has broken down. There are 3 ways to prove this:

- You and your partner lived separate and apart for one year.

- Your partner committed adultery. This means that they cheated on you with another person. Only the person who was cheated on can apply for divorce based on adultery.
- Your partner was so physically or mentally cruel to you that you cannot tolerate living with them anymore.

One-year separation period

A one-year separation is the most common basis for divorce. When that happens, your partner does not have to agree to a divorce or sign anything for you to get a divorce. You can apply right after you separate, but you cannot get the divorce until one year has passed.

You can live with your partner again for up to 90 days within this year if you are trying to reconcile and get back together. If you and your partner are not able to get back together, it won't affect the one-year separation period. You can do this before or after you start the court application for a divorce.

You can continue living in the same house during the separation, as long as you can show that you are not acting as a couple. This includes not sleeping together. It also includes many other things you should now do separately. These include things like grocery shopping, eating, socializing, doing laundry, and caring for the children.

Other considerations

If you base your application for divorce on cruelty or adultery, you must prove it. This can be difficult and expensive.

If you have children, you must make arrangements for child support before a judge will finalize your divorce. A family lawyer can help you. They can also help you deal with custody and dividing the family property.

If you were married in another province or country, you can still apply for a divorce in Ontario. You or your partner must have lived in Ontario for at least one year right before you apply.

III When will a Children's Aid Society be contacted?

The law says that anyone who thinks that a child is being harmed, or is at risk of being harmed, must report it to a Children's Aid Society (CAS). The CAS has a legal duty to investigate and, if needed, protect children from harm.

Harm can include physical abuse, emotional abuse, sexual abuse, or neglect. It can also include the risk of a child witnessing domestic violence, even if the child is not being physically harmed.

A teacher, doctor, counsellor, neighbour, or relative can call the CAS. For most professionals that work with children, it is an offence not to report. That means that when you speak

with a professional or service provider, if they believe that your child is at risk of being harmed, they must report it to a CAS. For example, the police must report any concerns to a CAS.

However, lawyers do not have the same duty to report as other professionals.

III Should I try mediation?

Mediation sometimes offers a solution to family disputes and can be faster and less stressful than a court hearing. A mediator does not give legal advice. They can help you and your partner talk about legal issues like custody and access, and spousal and child support. They can help you reach a solution you both like.

You do not have to use mediation. However, a judge might encourage you and your partner to try mediation if they think it might help. If this happens and you have concerns about mediation, let the judge know. Mediation is not always appropriate in domestic violence situations because:

- If you are afraid of or intimidated by your partner it can be hard to say what you want.
- You might find it difficult to talk about your experiences of violence in mediation. Or, the mediator might not understand the impact of violence on you or its impact on custody or access to children.

- Your partner might be very charming when other people are around. This might lead the mediator to think that certain arrangements, such as joint custody, are workable.

You do not have to agree to anything the mediator proposes. If you are uncomfortable with something, tell the mediator that you need time to speak to a lawyer, or to think about it.

Important: If you go to mediation, make sure you do not agree to any arrangement or sign anything before you discuss it with a family lawyer.

Finding a mediator

If you decide to try mediation, make sure to find a mediator who has been trained to handle cases involving domestic violence. If you are not sure, ask the mediator about their training and experience.

Each family court location in Ontario offers subsidized mediation services. The first meeting, called an intake meeting, is always free. You can get up to 8 hours of mediation for a fee based on you and your partner's incomes. This service is available whether or not you are in court. If you are already in court, you can get up to 2 hours of mediation free of charge. See www.attorneygeneral.jus.gov.on.ca/english/family/service_provider_by_family_court_location.php.

In some areas, Legal Aid Ontario has a mediation service that is free if you or your partner's income is low enough. These mediators help with issues of custody, access, parenting plans, issues around travel and vacation plans, parent communication, and child support. See www.legalaid.on.ca/en/getting/mediationservices.asp.

You can also find mediators with lower fees through JusticeNet. JusticeNet is a not-for-profit that helps people in Ontario whose income is too high to get legal aid and too low to afford standard legal fees. See www.justicenet.ca/professions.

There are several organizations that set standards for mediators in Ontario. You can find an accredited or certified mediator through:

- the Ontario Association for Family Mediation
- Family Mediation Canada
- the ADR Institute of Ontario

An accredited or certified mediator has completed special training and has professional liability insurance. This means that they have insurance in case someone sues them for not mediating properly.

Your lawyer might also recommend a mediator.

Part 7: Immigration issues

Will I be forced to leave Canada if I leave my partner?

If you are new to Canada, you might be worried you will be forced to leave Canada if you leave your abusive partner.

Your partner might threaten to have you deported from Canada if you report their abuse or if you leave them. Deported from Canada means being forced to leave the country.

Important: Your partner does **not** have the right to have you deported. Only federal immigration authorities can decide to deport someone.

Your risk of being forced to leave Canada depends on your immigration status here.

Canadian citizen

If you are a Canadian citizen, you **cannot** be forced to leave Canada only because you leave your partner.

Permanent resident with no conditions

If you are a permanent resident with no conditions, you **cannot** lose that status or be forced to leave Canada only because you leave an abusive relationship. This is true even if your abusive partner is your sponsor.

But immigration authorities might investigate if your sponsor tells them that:

- your relationship was not genuine, or
- you left out required information, or you included information that was not true in your application to Immigration, Refugees and Citizenship Canada (IRCC).

This could lead to the loss of your permanent resident status. If you are concerned about this happening, you should get legal advice.

Permanent resident with conditions

If you were given permanent resident status with a condition to live with your partner who sponsored you, you were expected to live with your sponsor for **2 years** after you receive status.

In April 2017, the government got rid of the condition that said a woman had to live with her sponsor for 2 years. Sponsored women now get permanent resident status without the condition.

And women who are in Canada with conditional permanent resident status now have permanent resident status without the condition.

This means you **cannot** lose your status or be forced to leave Canada only because you leave an abusive relationship.

In most cases, this applies even if you separated from your sponsor within the 2-year period. But this does not apply if you were ordered to leave Canada, and you:

- did not appeal the removal order, or
- appealed the removal order to the Immigration Appeal Division and lost your appeal.

If you are in one of these situations, you need to get legal advice about your options.

Sponsorship application in process

Your spouse may have sponsored you under the “Spouse or common-law partner in Canada” class. This is also called “inland spousal sponsorship.”

If your partner withdraws this sponsorship while your application is being processed, you cannot get permanent resident status under this class. You can be forced to leave Canada if that is the only immigration status you have to stay in Canada.

But if you have another status, for example, a valid work, study, or visitor permit, you will not have to leave.

Other types of immigration status or no status

You might have temporary status. For example, you might have a work, study, or visitor permit. Or you might be a refugee claimant.

Or maybe you stayed in Canada after your temporary status ended, and you have no status.

If you have temporary status or no status, you should get legal advice about your options. Immigration authorities might not do anything if you leave your partner. But you might be at risk of being forced to leave Canada.

The steps you can take to try to stay in Canada depend on your immigration status.

You might be able to apply to stay in Canada by applying for permanent resident status on “humanitarian and compassionate” (often called H&C) grounds.

For more information on how family violence affects immigration status, see these CLEO publications:

- [Family violence when a woman is sponsored by a spouse or partner](#)
- [Humanitarian and compassionate \(H&C\) applications and refugee claims: how are they different?](#)
- [Making a humanitarian and compassionate \(H&C\) application](#)

III Getting legal help

Important: Immigration law in Canada is complicated. It is easy to make a serious mistake. It is important that you get legal advice from a lawyer who does immigration law. If you are worried about your immigration status, are at risk of losing your status, or are unsure what your status is, you need to get legal advice.

Your lawyer can do things like:

- help you apply to stay in Canada
- help you understand how your immigration status might affect any family law or criminal law issues
- explain the differences between making an H&C application and a refugee claim
- help you decide if you should apply to separate your refugee claim from your partner's refugee claim

You might be able to get a **Legal Aid certificate** to help you with an H&C application in certain situations, such as if you have experienced domestic violence and there are children involved. To apply, call Legal Aid Ontario toll-free at **1-800-668-8258**.

Legal Aid certificate: a document that says Legal Aid Ontario has agreed to pay for a certain number of hours of a lawyer's time to work on your legal issues. Not all lawyers accept these certificates. You have to find a lawyer who agrees to work for you and agrees to accept your certificate. You can find a lawyer who accepts Legal Aid certificates online at www.legalaid.on.ca/en/getting/findingalawyer.asp.

Legal Aid Ontario's Refugee Law Office offers free help to people leaving an abusive relationship with their:

- refugee claims
- H&C applications
- other immigration questions

You can call them toll free at **1-855-854-8111** or at **416-977-8111** in Toronto. Your local community legal clinic might also be able to help you. [See page 107.](#)

If you have experienced family violence and need immediate legal help, you might be able to get 2 hours of free advice from a lawyer.

If you need advice from a family lawyer and an immigration lawyer you can ask to get advice for **both**.

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. [See page 104.](#)

You might need to speak to a family lawyer, especially if you have children. If you have a family law court order that deals with your children, it is important to get family law advice about your situation.

III Will police contact immigration authorities?

If you call the police for help, they might contact immigration authorities to ask about your status. The police computer system will show if there is an immigration **warrant** for your arrest. Immigration authorities usually create a warrant if you:

- do not show up for a hearing or appointment with immigration officials
- were scheduled to leave Canada on a specific date but did not show up

Warrant: a document that allows the police or immigration authorities to arrest you.

If you do not have permanent resident status, talk to an immigration lawyer right away, once you are in a safe place.

Part 8: Issues affecting Indigenous women

It can be hard for Indigenous women to get provincial family court orders enforced in First Nations communities (on reserve). The Chief and Council can decide which laws and orders to enforce on reserve. This includes orders for **exclusive possession** of the family home, **restraining orders**, and orders for custody, access, and support.

Exclusive possession: a court order that says one partner can stay in, or return to, the home and the other partner is not allowed on the property. If there are children, the order usually also says 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 partner can stay in it.

Restraining order: a court order that says what your partner cannot do. For example, the order might say where he cannot go, or who he cannot contact.

Usually, Ontario law decides what should happen to family property. But there are special rules that apply to family property on reserves. Each First Nation might pass its own laws about family property rights. If they do not, there is a federal law about how to divide the value of a family home on a reserve and who can live in the home. This is a complicated area of law. You should get legal advice from a family law lawyer who also has experience dealing with issues affecting Indigenous women.

You should tell the judge if you or your partner live on reserve so they know that there might be different laws that apply and that it might be hard to get your order enforced.

Bands and First Nations, Inuit, or Métis communities may also have special rights to participate in **child protection** cases if the children are Indigenous. The court must consider things like the importance of preserving the child's cultural identity when making decisions about Indigenous children.

III Helplines

If you are Indigenous, you can call the First Nations and Inuit Hope for Wellness Help Line at **1-855-242-3310**. This is a crisis helpline with counselling available in English and French and, on request, Cree, Ojibway, and Inuktitut.

If you are an Indigenous woman living in Northern Ontario, you can call Talk4Healing at **1-855-554-4325**. This is a helpline with services by Indigenous counsellors in English, Ojibway, Oji-Cree, and Cree.

If you are part of the Six Nations of the Grand River community, you can contact Ganohkwasra Family Assault Support Services. This organization provides support to families dealing with issues of family violence and sexual assault through a wide range of services. These include a 24-hour crisis line, community counselling and education, shelter services, outreach services, and a youth shelter. Go to www.ganohkwasra.com or call the crisis line at **519-445-4324**.

III Resources

For more information on issues affecting Indigenous women, see the Native Women's Association of Canada website at www.nwac.ca and the Ontario Native Women's Association website at www.onwa.ca.

Information for Indigenous women experiencing family violence can be found at the Kanawayhitowin website at www.kanawayhitowin.ca.

For information on health, justice, and family support, contact the Aboriginal Healing and Wellness Strategy at www.ahwsontario.ca or see the Ontario Federation of Indigenous Friendship Centres' website at www.ofifc.org.

Part 9: Next steps

III Can I take money with me?

Before or as soon as you leave your partner, you should transfer money from any joint bank accounts to a new account that is in your name only. You should be entitled to at least half of the money in a joint account. A family lawyer can tell you how much you can withdraw. You should also take any money you have at home when you leave.

Get all your regular payments like work pay, social assistance, or government child care benefits deposited to this new account. You should keep bank records for all of your accounts.

If you have a joint safety deposit box, remove all documents, valuables, or bonds that belong to you. If you have any income that is mailed to you at home, arrange to pick up the cheques yourself. Or, have them sent to a relative or friend where they will be safe.

III What about online accounts?

Your partner might try to monitor your emails, website visits, or telephone calls.

If you and your partner share an email account, you should set up your own account and keep your password private. If you have your own email account but your partner knows or

could figure out your password, you should change it. Stay away from passwords that are things your partner would think of. For example, do not use your children's names, the name of your pet, children's birthdates, or other words or numbers that your partner knows.

If you are worried that your partner will try to harass you by email, keep your old email address for him to use and use your new email address for everything else. This way, you can control how often you look at emails from your partner.

Important: Email messages are not private. If you send messages to your partner after you separate that are angry or insulting, your partner can use them in family law proceedings.

You should also be careful about other online passwords that your partner might know or could figure out. For example, you might want to change your online banking password.

Luke's Place tells you how to stay safe online or on your phone. See www.lukesplace.ca/resources/keep-safe-online.

Phone and mail

You might also want to change your cell phone number, so your partner cannot call and harass you.

You can have your mail forwarded either at the post office or online at www.canadapost.ca. There is a fee for this service. You should also tell your banks, Canada Revenue Agency, and other important businesses if you move.

III What about financial assistance from Ontario Works?

You might be able to get financial assistance from Ontario Works (OW) if you have a low income or no income. Some people call this welfare.

Financial assistance is money you get from OW to help pay for things you need, like housing and food.

To apply for OW assistance, you can contact the nearest OW office. Call ServiceOntario at **1-800-267-8097** or **416-326-1234** in Toronto and give them your postal code. The TTY number is **1-800-268-7095** or **416-325-3408** in Toronto.

OW used to reduce the amount of financial assistance you got by the amount of child support you got. This has changed. Getting child support that is owed to you for any period of time **on or after February 1, 2017**, does **not** affect the amount of financial assistance that you get.

But getting spousal support does affect the amount of assistance that you get. OW reduces the amount of your assistance by the amount of spousal support you get.

OW can refuse to give you assistance or can reduce or cut off your assistance if you:

- might be able to get spousal support, and
- don't make "reasonable efforts" to get it.

But sometimes you might not have to try to get support, for example, if you are leaving an abusive relationship. So it is important to tell OW if you have been abused. They might also be able to help you apply for support.

For more information, see the CLEO publications [Need welfare? How to apply to Ontario Works](#) and [Child and spousal support when you are on social assistance](#). You can find them at www.cleo.on.ca.

If you have a problem getting social assistance, contact a community legal clinic right away. Or if you are staying in a shelter, they may be able to help you.

III **What about financial support from my partner?**

Even if you have some income of your own, it might be difficult financially when you separate from your partner. You might need spousal support. Talk to a lawyer to see if your partner has a legal obligation to support you.

For more information, see the CLEO publication [Separation and Divorce: Spousal Support](#). You can find it at www.cleo.on.ca.

Even if you get spousal support, the judge usually expects both partners to be able to eventually take care of themselves financially. Your partner might have to pay support while you take a course or attend training.

If you do not have current job skills, there might be government programs available to train you. Sometimes you can get government assistance while you learn. For more information, you can contact a women's centre, Service Canada Centre, or see www.servicecanada.gc.ca or www.hrsdc.gc.ca.

III Where will I live?

Shelters provide temporary emergency housing. They are free of charge. You can get information about shelters close to you at www.sheltersafe.ca/ontario.

In some shelters, you cannot stay for more than 6 weeks. But sometimes it is possible to make special arrangements with the staff to stay longer. Shelter staff will work with you to find other suitable accommodation as soon as possible.

Shelters usually cannot take pets. But they might be able to help you find temporary housing for your pets through the SafePet Program. This program was developed by shelters and the Ontario Veterinary Medical Association.

If you are on government assistance or you cannot find affordable housing, you can apply for government-funded housing, or for a housing subsidy. There might also be

housing co-operatives that might be more affordable. Women leaving violent situations are given priority, but there might be a waiting list.

III Criminal Injuries Compensation Board

The Criminal Injuries Compensation Board (CICB) gives money to victims of violent crimes who have suffered injuries and have had expenses because of the crimes. You can apply even if criminal charges were not brought against your partner or he was found not guilty. However, a police report or a criminal conviction will help your case.

As soon as possible after the incident, contact the CICB to ask for an application form. You can call **1-800-372-7463** or **416-326-2900** in Toronto. For more information, see www.sjto.gov.on.ca/cicb.

If you have been sexually assaulted or experienced domestic violence, you can apply to the CICB at any time. There is no time limit for these crimes.

For other types of crimes, you must apply within 2 years from the date of the crime. After 2 years, you can ask the CICB for an extension of time. This is usually granted. Before granting an extension, the CICB might ask you for evidence to support your claim and why you did not apply earlier.

Do I need a lawyer?

You do not need a lawyer. However, it is a good idea to get a lawyer, paralegal, or advocate to help you with your CICB application. A community legal clinic or student legal clinic might be able to help you. [See page 107.](#)

Is there a trial?

There is no trial. However, the CICB can deal with your application in 2 different ways: through an oral hearing or a documentary hearing.

At an oral hearing, you go in person and explain what happened to a panel of 1 or 2 people. You can bring witnesses to speak about the incident and/or a support person. You can also request an “electronic” hearing if you want your partner to participate by phone because, for example, you do not want to be in the same room as him. You can also present written evidence. This includes medical reports and police reports. However, most written evidence should be provided before the hearing. The CICB does not usually release medical or psychological reports to your partner.

A documentary hearing means the CICB will make a decision after reading all the reports and documents you send to them. You do not have to go in person.

CICB decides which hearing is better for your situation. However, if it schedules a written hearing but you would like the chance to be heard in person, you can ask for an oral hearing.

Will my partner know about the hearing?

The CICB will send your partner a notice of any hearing at the CICB, and they can participate. However, if they were convicted of a crime, they will not be notified, because their conviction is evidence that the crime happened. If they have not been convicted and choose to participate, they can call their own witnesses, call other evidence, or ask you questions. The CICB will also ask them questions, and you can ask questions.

How much can I get?

Awards are paid by the CICB, not your partner. The maximum lump-sum award is \$25,000. However, most awards are much lower than that. They can be given all at once as a lump-sum payment or over time in a series of payments.

You can be compensated for different kinds of losses. These include expenses you had or will have because of the injury. For example, you can receive compensation for dental work, medication, and therapy. You can also receive money for travel if you have to travel more than 40 kilometres each way from home for treatment. Only expenses that another

source will not pay are considered by the CICB. You can also be compensated for your pain and suffering or if you lost income because of your injuries.

You can make separate applications for your children if they have been victims of a violent crime, and have suffered physically or emotionally. If you are a victim of long-term domestic violence, you can apply for compensation for separate incidents of abuse if you have evidence of injuries you received for each of the separate incidents. Without this evidence, the CICB will combine the applications and consider them together.

For more information, see www.communitylegalcentre.ca/legal_information/Tips/CICB/CICB-Tip-Sheet.pdf.

Part 10: Legal and community resources in Ontario

Legal services for victims of violence

Some specialized legal services are available to victims of family violence. These include agencies and services that have lawyers providing legal services and other staff members trained to offer legal support services.

Family Court Support Workers

Family Court Support Workers provide support to victims of domestic violence who are involved in the family court process. A Family Court Support Worker:

- gives information about the family law and court process
- helps you prepare for family court proceedings
- refers you to other specialized services and supports in the community
- helps with safety planning
- goes to court proceedings with you, where appropriate

A Family Court Support Worker can also help you find a lawyer.

Family Court Support Workers are based in communities across the province. A list of service providers is on the website.

If you have questions about the program, or need help finding your service provider, call the Victim Support Line (VSL).

Toll-free (VSL): **1-888-579-2888**

Toronto area (VSL): **416-314-2447**

Website: www.attorneygeneral.jus.gov.on.ca/english/ovss/family_court_support_worker_program/service_providers.php

Barbra Schlifer Commemorative Clinic

This organization provides free legal representation in family and immigration law to women in the Greater Toronto Area who experience physical, sexual, or psychological abuse. It also provides counselling and language interpreter services. Its staff can give summary advice and advocacy in criminal law.

Toronto area (accepts collect calls): **416-323-9149**

TTY: **416-323-1361**

Website: www.schliferclinic.com

Jared's Place Legal Advocacy & Resource Centre for Women

This Hamilton organization provides free legal information to women who have experienced abuse. Women can get support from a legal advocate and summary legal advice from a lawyer.

Hamilton area: **905-522-0127, ext. 207**

Website:

www.intervalhousehamilton.org/legal-support

Luke's Place

This Durham Region organization provides a wide range of legal support services to women who have experienced abuse and are involved in family court. Women can access free summary legal advice through the Pro Bono Summary Advice Clinic, which is held one day a week. Women can also get advice by speaking with a staff lawyer.

Their website has a list of organizations in Ontario that support abused women at www.lukesplace.ca/resources/family-law-support-services-for-women.

Toll-free: **1-866-516-3116**

Oshawa area: **905-728-0978**

Website: www.lukesplace.ca

III General legal services

Legal Aid Ontario (LAO)

Legal Aid Ontario gives low-income people access to a wide range of legal services. Some of these are designed specifically for people who have experienced domestic violence.

Toll-free: **1-800-668-8258**

Toronto area (accepts collect calls): **416-979-1446**

Toll-free TTY: **1-866-641-8867**

Toronto area TTY: **416-598-8867**

Website: www.legalaid.on.ca

Legal Aid certificates

You can apply for a Legal Aid certificate to pay for a lawyer. A certificate is a document that says LAO has agreed to pay for a certain number of hours of a lawyer's time to work on your legal issues. LAO will decide if you qualify based on your income and legal issue.

A different test is used for people who are experiencing domestic violence. You can have a higher income than other people and still qualify for a certificate. You can see the financial eligibility guidelines at www.legalaid.on.ca/en/getting/eligibility.asp.

Victims of domestic violence who have a family or immigration law issue might be able to get a Legal Aid certificate more quickly. If you call LAO and tell them that you are a victim of domestic violence, you will be placed in a priority line for help with your application. In urgent cases, you might be able to apply for a certificate in person at an LAO office. You might be able to get a certificate on the same day that you apply.

Victims of domestic violence can ask a women's shelter or community legal clinic to help them get 2 hours of free advice from an immigration or family lawyer. You have to apply for a Legal Aid certificate if you want the lawyer to represent you in any legal proceedings.

For people who qualify financially, LAO will cover up to 6 hours of independent legal advice if you are involved in family law mediation. If you are eligible, you can speak with a lawyer before, during, and after mediation.

LAO provides Legal Aid certificates for victims of domestic violence who have been charged criminally, who qualify financially, and who face serious consequences if they are found guilty. For example, if there is a chance you will get a jail sentence, lose custody of or access to your children, or face immigration or refugee challenges, you might be able to get a certificate.

Family Law Offices

There are 3 Family Law Offices in Ontario. Their family lawyers can represent people who qualify for legal aid. They are located in:

- Kenora, at **807-468-7790** or toll-free at **1-888-295-4986**
- Ottawa, at **613-569-7448**
- Thunder Bay, at **807-346-2950** or toll-free at **1-800-393-8140**

Family Law Service Centres

At Family Law Service Centres, if you are financially eligible, you can get a variety of legal resources and support, including:

- help with documents
- referrals to advice counsel
- full representation in family law cases by a staff lawyer
- referral to a private lawyer who will take a Legal Aid certificate
- mediation and settlement conferences
- referrals to other social service agencies

These centres are located in Brampton, Chatham, Halton, Newmarket, North York, Oshawa, Sarnia, St. Catherines, Toronto, Welland, and Windsor. It is important to use the centre in the region where your court case is located.

To find a centre near you, call Legal Aid Ontario or go to www.legalaid.on.ca.

Family Law Information Centres

Family Law Information Centres (FLICs) are located in Ontario courts that deal with family law matters. They provide a variety of information and services that can:

- help you understand the court process
- give you court forms
- explain how to get your own lawyer
- answer your general questions
- refer you to services and resources

Advice lawyers from Legal Aid Ontario are also available at FLICs, at certain times.

You can find a list of courthouses at

www.attorneygeneral.jus.gov.on.ca/english, click on “Court Services” and then “Court addresses”.

Community legal clinics

Community legal clinics provide summary advice, referral, and representation on many legal issues. Student Legal Aid Services Societies (SLASS) in law schools in Toronto, Kingston, London, Ottawa, Windsor, and Thunder Bay can also provide legal assistance.

To find the Legal Aid office, community legal clinic, or SLASS nearest you, call Legal Aid Ontario or see www.legalaid.on.ca.

Law Society Referral Service

The Law Society Referral Service is an online service that gives you the name of a lawyer in your area who will provide you with a free consultation for up to 30 minutes, to help you determine your rights and options. There is no charge for this referral service. You can ask for a lawyer who speaks your language, or a lawyer who will accept a Legal Aid certificate.

You must complete and submit an online form. You will then be given the name and contact information of a lawyer, as well as a referral number. Give the referral number when you call the lawyer. They will call you back within 3 days to make an appointment for your consultation. This might be in person or over the telephone.

If you are in crisis, such as being held in custody, or cannot use the online service, you can call the crisis line for a referral during normal business hours.

Toll-free crisis line: **1-855-947-5255**

Toronto area crisis line: **416-947-5255**

Website: www.findlegalhelp.ca

III Legal information

Community Legal Education Ontario/Éducation juridique communautaire Ontario (CLEO)

CLEO provides clear-language materials on a wide range of topics including family law.

All publications are free. Many resources are available in a variety of languages. They can be viewed, downloaded, and ordered online.

Website: www.cleo.on.ca

CLEO's Steps in a Family Law Case is an online resource made up of 3 interactive flowcharts that guide people through the family court process depending on whether they are the applicant or respondent.

Website: www.familycourt.cleo.on.ca

Steps to Justice is a website that gives step-by-step information about common legal problems, including how abuse and family violence can impact family issues.

Website: www.stepstojustice.ca

CLEO's Refugee Rights in Ontario website has information about refugee law issues.

Website: www.refugee.cleo.on.ca

CLEO also has an extensive online collection of public legal information resources on the Your Legal Rights website. These resources cover topics like family law and partner abuse, and are produced by legal and community organizations across Ontario.

The website also lists services available to victims of abuse and family violence at www.yourlegalrights.on.ca/find-services/service-topic/abuse-and-family-violence.

Website: www.yourlegalrights.on.ca

Metropolitan Action Committee on Violence Against Women and Children (METRAC)

METRAC works to end violence against women and youth by focusing on education and prevention. Their activities include providing public legal information, tools, and workshops on issues related to women and children experiencing violence.

Website: www.metrac.org

Through Family Law Education for Women, they also provide free legal information on 12 family law topics in 12 languages and in a variety of formats, including large print, braille, audio, and ASL.

Website: www.onefamilylaw.ca

METRAC also has a website, the Ontario Women's Justice Network (OWJN), that provides legal information and referrals to women in Ontario experiencing violence.

Website: www.owjn.org

III Crisis helplines

Assaulted Women's Helpline

The Assaulted Women's Helpline is a free telephone and TTY crisis telephone line for women in Ontario who have experienced abuse. You do not have to give your name when you call. It offers crisis counselling, safety planning, emotional support, information and referrals in over 200 languages. It is available 24 hours a day, 7 days a week.

Toll-free: **1-866-863-0511**

Toronto area: **416-863-0511**

Toll-free TTY: **1-866-863-7868**

Toronto area TTY: **416-364-8762**

Mobile: **#SAFE (#7233)**

Website: www.awhl.org

Fem'aide

This helpline is for Francophone women in Ontario seeking support, referrals, and information on woman abuse, including sexual assault. It is available 24 hours a day, 7 days a week.

Toll-free: **1-877-336-2433**

Toll-free TTY: **1-866-860-7082**

Website: www.femaide.ca

First Nations and Inuit Hope for Wellness Help Line

This crisis helpline provides culturally-sensitive counselling support for Indigenous people. Counsellors also provide referrals for follow-up services. Counselling is available in English and French and, on request, Cree, Ojibway, and Inuktitut. It is available 24 hours a day, 7 days a week.

Toll-free: **1-855-242-3310**

Website: www.canada.ca/en/health-canada/services/first-nations-inuit-health/health-promotion/mental-health-wellness.html

Talk4Healing

Talk4Healing is a helpline for Aboriginal woman living in Northern Ontario. Services are provided by Aboriginal counsellors in English, Ojibway, Oji-Cree, and Cree. It is available 24 hours a day, 7 days a week.

Toll-free: **1-855-554-4325**

Website: www.talk4healing.com

Ganohkwasra Family Assault Support Services

If you are part of the Six Nations of the Grand River community, Ganohkwasra Family Assault Support Services offers a family violence and sexual assault crisis line. It is available 24 hours a day, 7 days a week. They also offer community counselling and education, shelter services, outreach services, and a youth shelter.

Telephone: **519-445-4324**

Website: www.ganohkwasra.com

211 Ontario

The 211 telephone helpline is a referral service, offered in more than 100 languages, for all types of social services. It is available 24 hours a day, 7 days a week.

The website is an online resource to help you find community and social services available across Ontario. It also lists programs and services for victims of abuse and assault at www.211ontario.ca/topic/abuseassault.

Telephone: **211**

Website: www.211ontario.ca

III Victim services

ShelterSafe.ca

This is an online resource for women and their children seeking safety from violence and abuse. It has a clickable map that can show you which shelters are closest to you.

Website: www.sheltersafe.ca

Ontario Association of Interval and Transition Houses

This is a provincial coalition of emergency shelters for abused women and their children, second-stage housing programs, and community-based women's service organizations.

You can find links to resources and information for people who work with women who have experienced domestic violence.

Website: www.oaith.ca

Ontario Coalition of Rape Crisis Centres

This is a network of 26 community-based sexual assault centres across Ontario. They provide counselling, information, support services, and referrals to people who have experienced sexual violence. The website lists the centres, and has resources for victims of sexual violence.

Website: www.sexualassaultsupport.ca

Ontario Federation of Indigenous Friendship Centres (OFIFC)

The OFIFC is an organization that represents Friendship Centres across Ontario. Friendship Centres serve the needs of Indigenous people by providing culturally sensitive and culturally appropriate services. Some Friendship Centres have programs that provide crisis intervention and peer counselling to community members who are affected by violence.

The website lists contact information for Friendship Centres across Ontario.

Toll-free: **1-800-772-9291**

Toronto area: **416-956-7575**

Website: www.ofifc.org

Ontario Network of Sexual Assault/ Domestic Violence Treatment Centres

This is a network of hospital-based centres that provide care to women, children, and men who have recently been sexually assaulted or experienced domestic violence.

There are 35 of these centres in Ontario. Services include emergency medical and nursing care, crisis intervention, forensic evidence collection, medical follow-up, and counselling. The website lists centres throughout Ontario and referral information.

Website: www.satcontario.com

Ontario Victim Services

The Ontario government has a Victim Services Directory (VSD) that helps abuse victims find programs and services in their communities. You can also talk to an information and referral counsellor by calling the Victim Support Line (VSL).

Toll-free (VSL): **1-888-579-2888**

Toronto area (VSL): **416-314-2447**

Website (VSD): services.findhelp.ca/ovss

One program funded by the Ontario government is the **Victim Crisis Assistance Ontario (VCAO)**. Support services include attending on scene with the police to provide crisis support, safety planning, and referrals to counselling and other services.

The **Victim Quick Response Program** can help you access services for emergency expenses and counselling. For example, they can help with emergency home repairs, changing your locks, or replacing broken doors.

Another program offered by the Ontario government is the **Victim/Witness Assistance Program (VWAP)**. [See page 30](#). This program provides information and support throughout the criminal court process to victims and witnesses of crime. It is available in all 54 court districts in Ontario. You can call the Victim Support Line (VSL) or search the online Victim Services Directory (VSD) to find your local VWAP contact information.

This publication gives only general information. You should get legal advice about your own situation.

Produced by:

CLEO (Community Legal Education Ontario/
Éducation juridique communautaire Ontario)

With funding from:

Legal Aid Ontario
Department of Justice Canada

Please note:

We revise our publications regularly to reflect changes in the law. Our Discard List tells you which publications are out of date and should be thrown away.

All editions of this handbook dated earlier than August 2017 should be discarded.

For our Discard List, or to view or order our publications online, please visit www.cleo.on.ca. You can reach us by phone at **416-408-4420**.

CLEO's **Steps to Justice** website has step-by-step information about common legal problems. Visit www.stepstojustice.ca.