



## What family law is about?

Family law is mostly about the rights and responsibilities of spouses, parents, and children. Rights are what the law says you can get. Responsibilities are what the law says you have to do.

### Family law information is important if you are in any of these situations:

- living with someone as a couple
- getting married
- having or adopting a child
- separating
- getting divorced
- experiencing violence or abuse within your family

### In an emergency, dial 911 for immediate assistance.

Connect with the women's shelter in your community (you can find a list at [ShelterSafe.ca](http://ShelterSafe.ca)). Even if you don't stay at the shelter, staff can provide outreach services to support you and can help you make an emergency escape plan as well as a safety plan.

### Disclaimer:

Any information provided in this fact sheet (and documents that can be downloaded from links provided in this fact sheet) is to be considered legal information only. It is not legal advice or a replacement for legal advice.

Information shared is accurate and current to the best of our knowledge as of the date it is posted, but users should be aware that laws, their application and court processes change frequently, sometimes without notice.

The legal information is specific to Ontario; Canada. Anyone dealing with a legal issue is strongly encouraged to consult with a lawyer to review their options, rights and obligations.

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## **Covid 19 Update**

### **April 6/20 Update:**

As of Monday, April 6th, family courts in Ontario will be dealing with slightly expanded matters. Courts remain closed for regular operations, but in addition to urgent matters, courts in most locations will also hear:

- Requests for consent orders submitted by 14B motions under the Family Law Rules
- Case conferences with a potential limit on the number of issues that can be addressed at the hearing
- Email service of court documents is permitted without consent or a court order.

Communication with court staff and trial coordinators is to be by email. The subject line of all emails should identify the level of court, the type of matter (i.e. family), the file number (or say NEW if there is no file number) and the type of document being emailed.

**Judgments, endorsements and orders are effective as of the date they are made unless they state otherwise.**

For specific information about changes in your court location, please see the Regional Notices at:

**<https://www.ontariocourts.ca/scj/notices-and-orders-covid-19/>**

## **Frequently Asked Family Law Questions**

### **Question**

I'm worried about COVID-19 and don't want to send my child for an access visit to my partner. What can I do?

### **Answer**

Unless you and your child are under quarantine or must self-isolate, you must follow court orders or agreements about access. At this time, there's no law that says you or your child can't leave your home. So, in most cases, you're expected to follow your court order or agreement.

You may need to make small changes to your order or agreement because of COVID-19. You and your partner can agree to make these changes (preferably in writing via text or email). For example, your agreement may say you have to meet in a public place. Or your court order may say something that you're not able to do now, for example, meet in a fast-food restaurant that's closed because of COVID-19.

If you don't have a court order or agreement, you are expected to follow your child's routine as much as possible. This means your child can continue to see both parents if that is what would normally happen. COVID-19 should not be used as an excuse not to follow the current parenting schedule unless there is a good reason to believe it would put your child's safety at risk. If you want to stop access, you need specific evidence or examples of behaviour or plans that do not follow COVID-19 recommendations. For example, if the other parent has recently returned to Canada but is not following the rule that they must self-isolate for 14 days.

If you and the other parent can't agree, one of you might have to go to court.

Since March 16, 2020, Ontario family courts are only open for urgent matters. Access to a child may be an urgent matter. Each court decides how they will hear urgent cases and what qualifies as an urgent matter. Contact the court in your area to find out what process they're following for urgent matters. For example, they may hear motions and case conferences by telephone or video conference.

If the court hears your case, it will listen to what you and your partner say and look at the evidence. It will then decide based on which solution is in the best interests of the child.

**Question:**

Do I have to send my child to my partner for access visits if my child and I are self-isolating or under quarantine?

**Answer**

You must follow a court order or agreement about access. But a court is likely to agree that it's a good reason to stop access until you don't need to self-isolate or be in quarantine.

At the moment, anyone who returns to Canada from another country or who has been in contact with a person who has tested positive for COVID-19 has to quarantine themselves for 14 days. Anyone who has COVID-19 symptoms ([link is external](#)) is also being asked to self-isolate.

It's a good idea to contact your partner and try to get them to agree on their own to stop access until things change. You can offer other options, such as FaceTime, Skype, or WhatsApp calls, as well as giving them extra access time when your quarantine or self-isolation ends. If you and your partner agree about this, you usually won't have to do anything else. You may want to put your agreement in writing, but you don't have to.

If you and your partner can't agree on access while you're quarantined or self-isolating, then you may have to go to court and get a court order to change access for the short term.

**Question:**

I have a court date for a family case in the Superior Court of Justice. What should I do?

**Answer:**

Because of COVID-19, Ontario's Superior Court of Justice (SCJ) has been hearing only urgent matters since March 17, 2020. These urgent cases are heard by telephone or video conference and deal with:

- urgent motions about custody and access
- motions for restraining orders
- exclusive possession of the matrimonial home
- Hague applications and cases when a child has been abducted
- initial hearings in child protection cases after a Children's Aid Society has removed a child from their home

### **Covid 19 Update:**

From April 6, 2020, the SCJ will also hear some non-urgent matters by telephone and video conference. While each court decides what non-urgent matters they will hear, most courts will hear:

- requests for consent orders (14B motions)
- case conferences that have a few issues

### **Question:**

I have a court date for a family case in the Ontario Court of Justice. What should I do?

### **Answer**

Family courts remain open for urgent matters, including:

- Child protection hearings and restraining orders
- Urgent motions about custody and access
- Motions for restraining orders
- Hague applications and other abduction cases
- Enforcement of support arrears

These may be heard by telephone or video conference. Other trials and non-urgent matters will be adjourned for 8 to 12 weeks, unless the court makes an order that your matter will be heard.

This applies to all matters scheduled from March 20, 2020 to May 29, 2020. Ask for an adjournment at the local trial coordinator's office, preferably by fax, email, or by phone using Form 17F or 14B. You do not have to come to court.

**\*Note that some courts have reduced hours because of COVID-19.**

**Question:**

It would be helpful for us to know exactly how Family Court orders will effect our authorities so some direction from that side would help us. For instance, will there be something formally released from Family Court that provides alternatives to: custody exchanges ie: must be done at xx address and now they can't because xx is off limits (exchange at a school ... so where should they be doing the exchange now? What are the authorities for police?). I know they mentioned case law is being created as a result, but what does that look like? Our officers will need to receive messaging on how to react to these scenarios.

**Answer:**

The court will not have any general directives for the access purposes. The parties are required to follow the court order and if certain conditions are unable to be met (such as exchanges at school), the parties could agree upon another mutually agreeable public place for access exchanges. Unless the existing court order provides for the Police enforcement clause, the police may not be able to enforce the court orders regarding access.

The police officers, if called by either parent, would have to look at the court order and what directives regarding the police enforcement are included in the court order. If not, they would have to advise the parties to follow the family court order or get further court orders, if there is any emergency that requires changes in the existing access orders (unless they have reason to intervene based on their mandate outside of the court order).

The Restraining orders and Non-removal orders, if granted by the family court will be updated through the CPIC system, to which the Police officers will have access through the regular process of updating the CPIC system and they could respond accordingly.

If there is a Family court order, which is issued prior to the recent criminal charges against the access parent, and if the Recognizance of Bail conditions (subsequent to the family court order) state that access to be arranged by a family court order subsequent to this date, the Police officers will have to be mindful of such circumstances and handle the situation accordingly. Most importantly ask specific questions to know the complete picture from both family and criminal courts.

The police officers will continue to follow their protocol to inform the CAS if the event of a domestic call involving the children in the household, so that the CAS can follow up for risk assessment with the parent of the child.

**\*For more information regarding the reported family law cases and search for certain fact scenarios, you could follow this link and try to use particular search word to find similar cases during Covid-19:**

<https://www.canlii.org/en/#search/text=covid-19>