

## **REFORMING FAMILY JUSTICE FOR ONTARIANS**

November 24, 2008

Ontario's proposed family law legislation would improve access to justice, better protect and support Ontario children and families in times of family breakdown and distress, and make the family justice system faster and more affordable.

The proposed family law reform legislation covers the following areas:

### **RESTRAINING ORDERS**

The security of women and children would be improved under the new legislation, through a strengthened restraining order regime with expanded eligibility for those who lived together in a relationship for fewer than three years.

Under the new legislation, restraining order breaches would be prosecuted under the Criminal Code. This would increase protection for victims by allowing for tougher enforcement and stricter bail conditions.

In addition, an evidentiary test would be in place for judges to consider before granting restraining orders and there would be greater judicial authority to set specific terms.

In Family Law Act cases, judges would also be able to issue non-communication orders to control parties' contact or communication during litigation, if necessary to end the case justly.

### **IMPROVING EVIDENCE IN CUSTODY HEARINGS**

Ontario's proposed family law legislation would make it safer for children by requiring more evidence for judges to consider when determining the best interests of the child in custody decisions.

It would require everyone who applies for custody of, or access to, a child to complete a sworn statement, setting out all the information that relates to the child's best interests, including how they propose to care for the child.

Non-parents who apply for custody would also be required to submit a police records check as part of the application process. This is similar to requirements already in place for jobs or volunteer activities that involve direct contact with children.

As well, non-parents who apply for custody would have to provide information to the court about the existence of any Children's Aid Society record, the time frames of the involvement and whether the record is open or closed.

Judges would also have access to information about any other child protection or family law case involving a non-parent in a custody application.

In addition, judges would have new specific powers to control parents' harmful behaviour in custody and access disputes, such as changing the child's school or refusing to release the child's health card.

## **CHILD SUPPORT**

To ensure that obligations toward children are met following a family breakdown, the proposed legislation would require parents to provide annual financial disclosure for the purposes of calculating child support. This would make the system fairer and help to ensure children get the financial support they are entitled to receive.

At present, once an order for child support has been made, many parents don't go back to court to have the amount increased or decreased because they don't have the necessary financial information from the other parent.

## **PENSION REFORM**

The proposed legislation would also clarify how and when pensions are divided when marriages break down. The changes would reduce some of the strain of family court proceedings by saving court time and the cost of hiring experts.

The proposed legislation would allow for a simple way for separating couples to find out the value of the pension benefits to which they are entitled and allows pension plans to pay out the non-member spouse's share.

The proposed changes follow the general direction of expert advice provided by the Law Commission of Ontario on this issue. The Commission consulted widely with pension plan administrators and family and pension lawyers on the best ways to divide pensions when marriages break down.

## **FAIRER DIVISION OF ASSETS**

The proposed legislation would give fairer treatment to debts owed in relation to the matrimonial home at the date of marriage.

It would also mean fairer treatment in estates by balancing the obligations of an estate to dependants and heirs with those to a surviving spouse.

## **ALLOWING A PARENT TO ADD THEIR SURNAME TO THEIR CHILD**

Under the proposed legislation, a parent who is left off a birth certificate would be able to apply to have their surname added to their child's surname.

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