

Using Family Court and Beyond: A family law resource for women leaving abusive relationships

October 8, 2019

Presenter:

Pamela Cross
Legal Director
Luke's Place





| Your Legal Rights



This webinar is brought to you in partnership with CLEO Your Legal Rights.

For more information on our webinars visit:

<https://cleoconnect.ca/yourlegalrights/webinars>



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



Disclaimer

This webinar is for **general information purposes only** and is not legal advice. It is not intended to be used as legal advice for a specific legal problem





About our presenter...

Pamela Cross is a feminist lawyer; a well-known and respected expert on violence against women and the law for her work as a researcher, writer, educator and trainer. She is the Legal Director of Luke's Place Support and Resource Centre in Durham Region, where she leads the organization's provincial projects, including research, training and advocacy.

We acknowledge that the land from which we are presenting this webinar is the traditional territory of the Mississaugas of Scugog First Nation.

Disclaimer

This webinar is not to be interpreted
as legal advice.

Only a lawyer can provide legal advice.

NOTE

If you are dealing with abuse,
use caution when visiting online resources.

Luke's Place

Improving the safety & experience of abused women & their children as they proceed through the family law process



LukesPlace.ca

- Direct services for women in Durham region
- Print & online resources for women
- Training & resources for service providers & lawyers
- Policy, research & other activities to tackle systemic issues

Women leaving abusive partners

- Few report partner abuse
- Almost all engage with family law
- Few have full legal representation

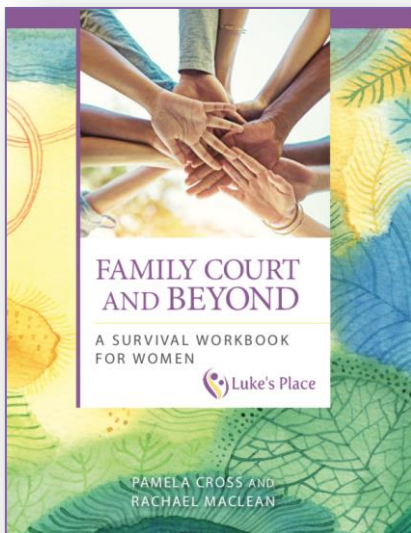
Emotional & legal issues
related to abuse



Need for additional
resources & support

Family Court and Beyond resource package

Workbook



Organizer



FamilyCourtAndBeyond.ca



En français: AOCVF.ca/commander-du-materiel

Download free PDFs of the Workbook & Organizer



To purchase hard copies

Workbooks: 10 for \$175

Organizers: 10 for \$70

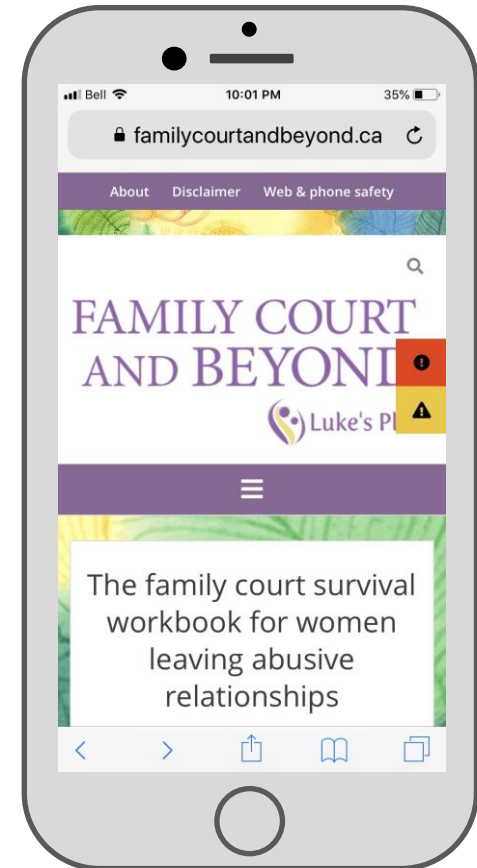
Includes shipping & handling anywhere in Ontario

Go to:

FamilyCourtAndBeyond.ca/how-to-purchase-hardcopies-of-the-workbook-and-organizer/

Useful to you if

- You provide family court support often
- You support women occasionally
- You want to help a friend/family member
- You are a woman fleeing abuse

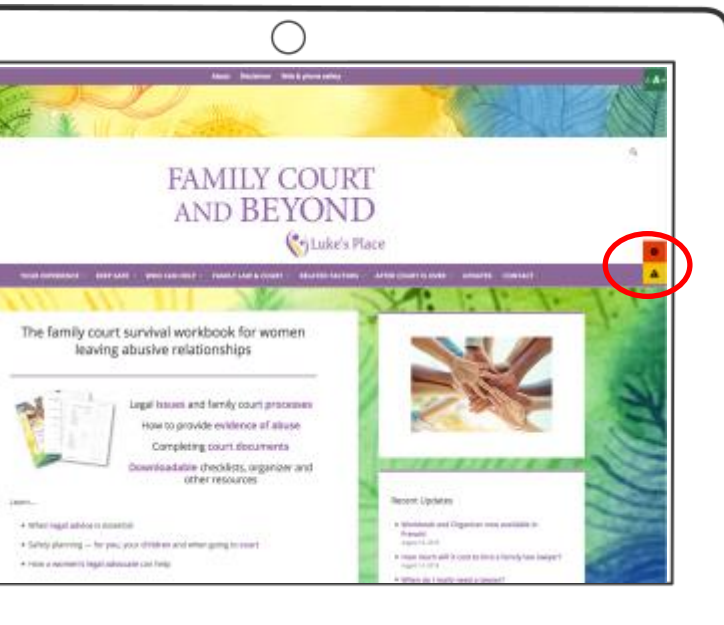


Privacy considerations

She can leave the website quickly if she needs to

Take care if the abuser might access her device

Keep print materials & notes private



Topics covered

Safety,
including
leaving home

Self-care

Evidence

Working with
a lawyer

Family court
process

Common
family law
issues

Court-related
services and
agencies

Issues in rural
communities

Indigenous
women and
family court

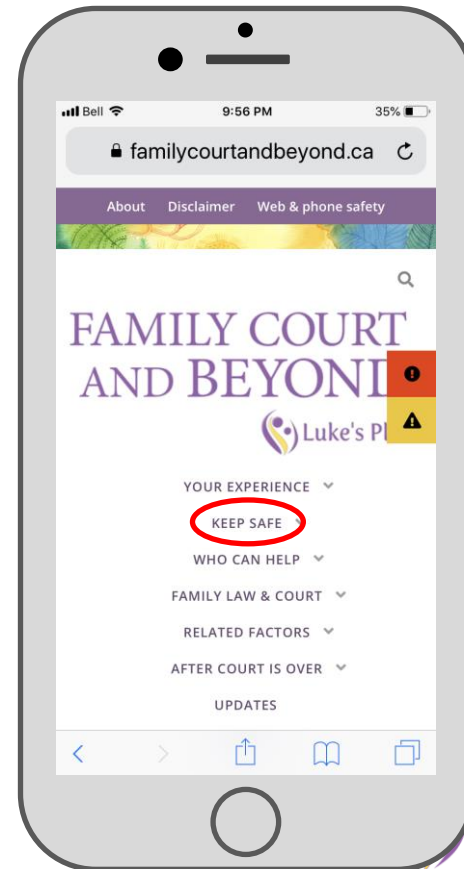
Intersecting
legal issues

After court is
over

Safety

Safety matters

- Whether she lives with the abuser or has moved out
- Emotional safety planning
- Making a safety plan is essential



Fact sheets

FAMILY LAW FACT SHEETS

ARRANGEMENTS FOR THE CHILDREN

When parents separate, legal arrangements need to be made about what and how the children will spend time with each parent and about who has responsibility for making decisions about them.

Ontario's Children's Law Reform Act uses the term, CUSTODY to refer to decision-making responsibility. Under this law, a parent with **SOLE CUSTODY** can make all choices about the child's upbringing without involving the other parent. When parents

FAMILY LAW FACT SHEETS

PROPERTY DIVISION

PROPERTY DIVISION FOR PEOPLE WHO ARE MARRIED

Marriage is considered to be a partnership, with each spouse making equal, if different, contributions and sharing equally in the family's property if the partnership ends. This includes property acquired during the years of the marriage that has been paid for by only one spouse or is registered in the name of only one spouse.

FAMILY LAW FACT SHEETS

CHILD SUPPORT

When parents do not both live with their children, the law requires both of them to contribute to the financial support of their children. Most commonly, the parent with whom the child lives will receive child support from the other parent. Any parents may be required to pay support for a child if they have actual or the role of a parent while living with the child.

Child support is usually paid until the child reaches the age of 18, unless the child gets married or withdraws from parental control before this. It may continue past this age if the child remains a full-time student or is unable to be independent because of illness or disability.

The amount of child support to be paid is calculated by using one of the tables developed by the federal and provincial governments and known as the Child Support Guidelines.

The basic amount to be paid is set by examining the payer's annual before-tax income and the number of children. The amount may be increased if there are additional special expenses, in which case the parents will be expected to share these costs in proportion to their incomes.

There are other situations in which the table amounts will not automatically apply if the child is over 18 or spends at least 40 percent of their time with each parent or if the couple split the children between them. The court is allowed to vary the amount of support to be paid.

Orders for child support are enforced through a provincial government agency called the **FAMILY RESPONSIBILITY OFFICE (FRO)**. When orders for child support are issued, the support from the parent either directly or by way of payroll deduction, then the funds the money to the recipient parent. Thus, the FRO's high can lead, there is often a delay of several months before when an order is registered and when the recipient parent begins to receive the support money.

FRO has a number of options to collect money when the payer is late, makes payments or attempts to evade the order, including garnishing his bank account, registering a charge against the payer's personal property (i.e., a car or house), suspending his driver's licence and/or cancelling his passport.

100 • FAMILY COURT AND BEYOND © 2015 Luke's Place, Ottawa, Ontario
www.lukesplace.ca

ABOUT | HOME | CONTACT | HELP & PRIVATE LOGIN

FAMILY COURT AND BEYOND

Luke's Place

YOUR EXPERIENCE | HELP PAGE | WHO CAN HELP | FAMILY LAW & COURT | RELATED FACTORS | AFTER COURT IS OVER | UPDATES | CONTACT

EVIDENCE

The family court survival workbook leaving abusive relationships

FAMILY LAW BASICS

Legal issues and family court processes
How to provide evidence of abuse
Completing court documents
Downloadable checklists, organizer and other resources

Learn...

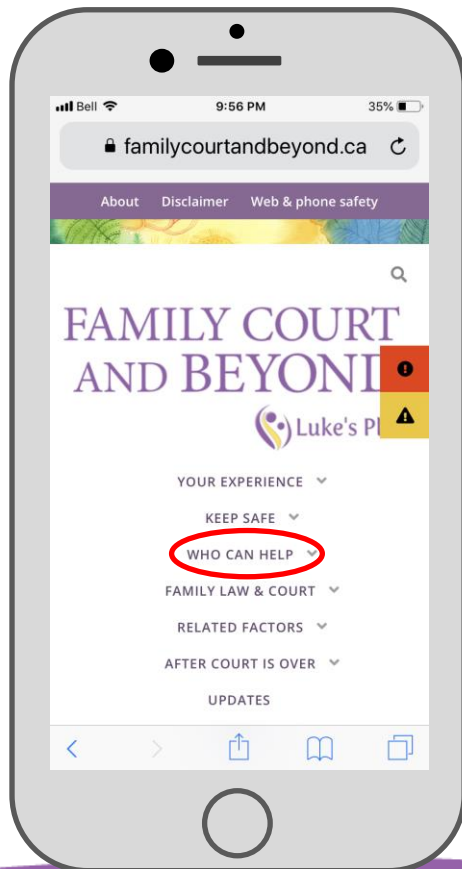
• When legal advice is essential

Recent updates

• Who's responsible for what when working with a lawyer?

100 • FAMILY COURT AND BEYOND © 2015 Luke's Place, Ottawa, Ontario
www.lukesplace.ca

Working with lawyers



WORKING WITH A LAWYER

CHART WHO'S RESPONSIBLE FOR WHAT?

The following chart sets out key responsibilities/tasks and identifies who is responsible for them: the lawyer, the woman or her women's legal advocate.

FINDING A LAWYER

WHO'S RESPONSIBLE:

- You
- Legal Advocate
- Lawyer

- ◆ Your women's legal advocate can help you by providing a list of names of possible lawyers.
- ◆ You are the one who has to decide which of those lawyers is best suited for what you need.

SETTING UP THE FIRST APPOINTMENT

WHO'S RESPONSIBLE:

- You
- Legal Advocate
- Lawyer

- ◆ You will contact your lawyer's office to arrange the first appointment, which will be scheduled for the next date your lawyer has available.
- ◆ You will probably arrange this appointment by talking to the receptionist or law clerk in the lawyer's office.

EXPLAINING THE LAWYER'S ROLE

WHO'S RESPONSIBLE:

- You
- Legal Advocate
- Lawyer

- ◆ At your first appointment, your lawyer should explain to you what their role includes and does not include.
- ◆ Make a list of everything you want to know about the lawyer's responsibilities. Take this list to your first appointment, and ask the lawyer about anything they do not mention.

EXPLAINING THE COSTS

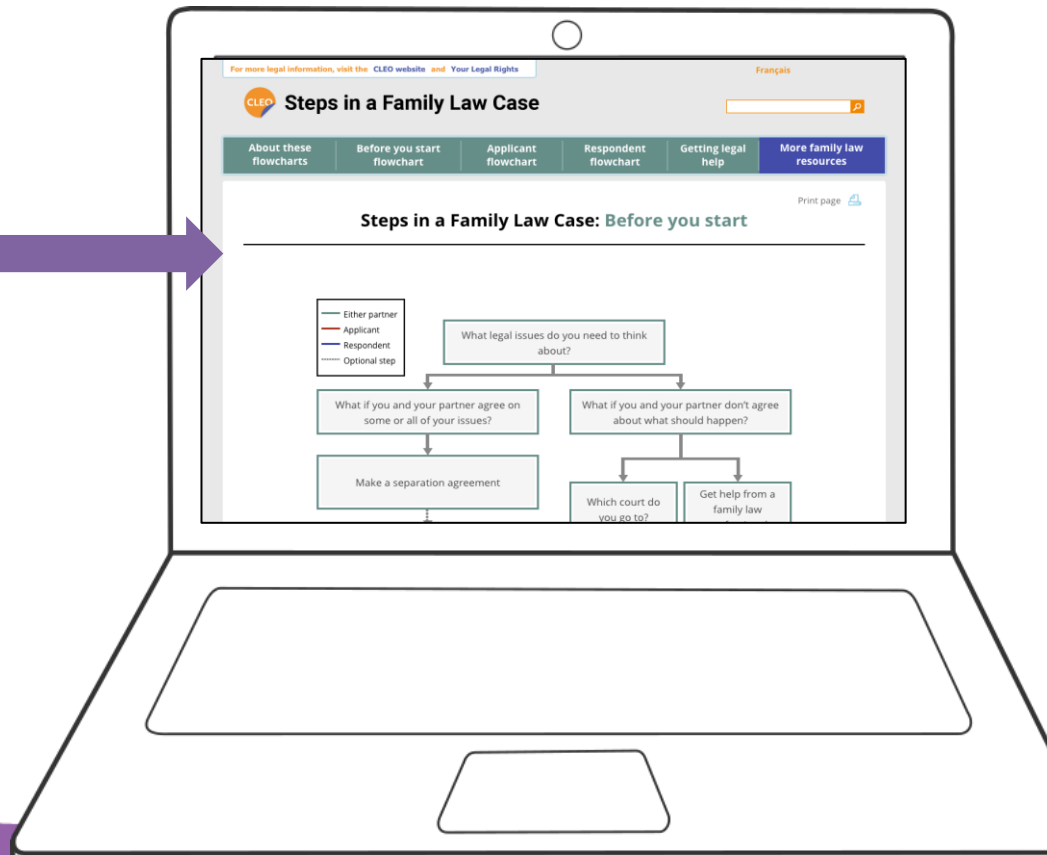
WHO'S RESPONSIBLE:

- You
- Legal Advocate
- Lawyer

- ◆ It is up to your lawyer to tell you about the costs of handling your case.
 - If your lawyer is being paid by Legal Aid Ontario, they should tell you how many hours of work LAO is paying for and what they think can be done in that amount of time.
 - If you are paying the lawyer's fees yourself, your lawyer should tell you their hourly rate as well as what some of the additional expenses (called disbursements) are likely to be.
- ◆ If your lawyer does not bring this up in your first appointment, you should ask about it.

Getting through court

Steps in the family court process



Legal bullying



LEGAL BULLYING

Legal abuse often escalates at the time of separation since this is one of the few remaining ways your ex-partner can attempt to control and harass you.

COMMON LEGAL BULLYING STRATEGIES

Your ex-partner may:

- Make it difficult for you to find a lawyer by "consulting" with all the family law lawyers in your community before you have a chance to call one. This creates a situation of conflict for lawyers so they cannot represent you.
- Engage in stalling tactics such as not finding a lawyer, making it difficult for you to get your case started or to move it along.
- Miss his mandatory information program session.
- Fail to complete his court documents on time.
- Try to file incomplete court documents.
- Ask for repeated adjournments so he can complete his court documents.
- Refuse to provide a complete financial disclosure (e.g., by not completing the financial statement fully or honestly).
- Try to divert your attention away from what he is doing legally.
- Seek repeated delays for no real reason.
- Repeatedly change lawyers.
- Fail to show up for scheduled mediation sessions.
- Change his mind repeatedly after you have agreed on court filing.
- Make malicious and unfounded allegations about you to the CASL, OII, ODSI.
- Make official complaints about his lawyer, your lawyer, the judge and anyone else who is involved with your case.
- Lie in his court documents.
- Harass you at court, in the days leading up to court appearances, when you are coming and going from court.
- Bring family members and/or friends to court with him to create a serious intimidating atmosphere in the waiting area.
- Bring repeated motions on issues that have already been decided or on very small issues that can be resolved without a motion.
- Refuse to follow court orders.
- Appeal decisions even when there is no possibility of success.
- Represent himself even though he would qualify for a legal aid certificate or could afford to pay for a lawyer himself.
- Run up your legal bill or run up the fees on your legal aid certificate by involving your lawyer's time with unnecessary correspondence, phone calls, etc.

WHEN CRIMINAL LAW IS INVOLVED

If your ex-partner has been charged in criminal court, he might bully you in family court by:

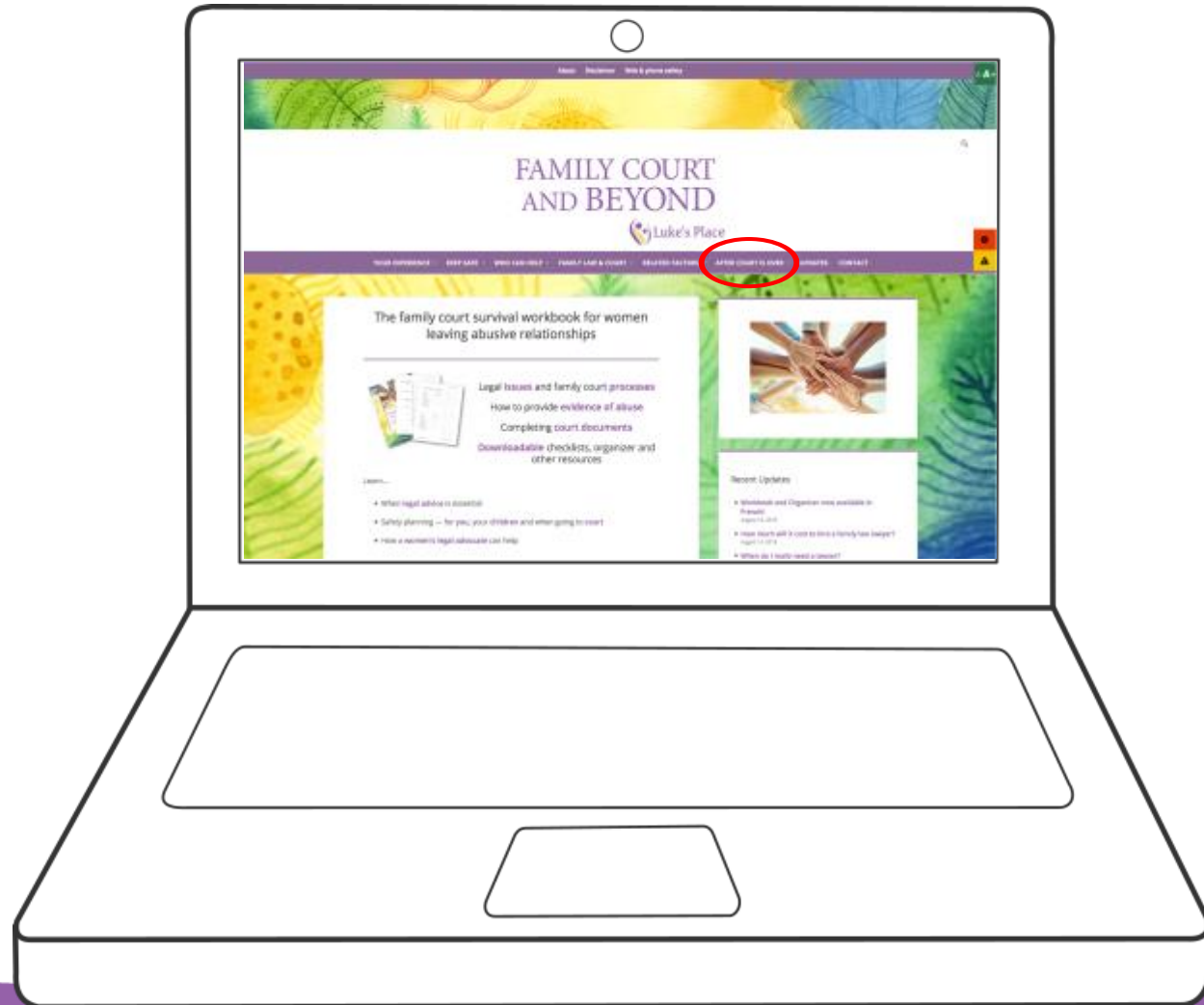
- Trying to delay the family court proceeding until the criminal case is over.
- Offering to "make a deal" with you that he won't fight you for custody if you won't testify against him in criminal court.

If you have been charged, your ex-partner might try to use this against you in family court, even if the facts do not support the charge you are facing. Your ex-partner might also try to interfere with your ability to find affordable housing, to get your children into child care, to enter an employment program, etc.

After court is over

Often abusers don't want to let go

Even before case is over, plan ways to respond to ongoing harassment



Planning life on her own

AFTER COURT IS OVER

The family court process can be long and difficult. By the time it is over, you may be exhausted. You will likely also be sick and tired of dealing with your ex-partner.

Unfortunately, your ex-partner may not yet be ready to give up his power and control over you, so you can't completely let your guard down once court is over. You may need to put some plans in place to help you and your children respond to your ex-partner's harassment, set boundaries and eventually regain control of your lives.

Every woman's plans for doing this will be different and dependent on her own situation. If you don't have children, for instance, it may be somewhat easier for you to limit your contact and communication with your ex-partner. If you have children, your plans will depend on whether you still both live in the same community, the ages of your children, whether one of you still lives in the family home, whether you are dependent on him for financial support, what the details of your arrangements for the children are, and so on.

LOOKING AHEAD

Now that your family law process is over, you can start to look ahead for yourself. This can be both exhilarating and intimidating. You need to become comfortable making yourself a priority.

You will need to set some goals for yourself and develop a plan to help you achieve those goals. To do this, think honestly and positively about your strengths, what you enjoy doing, what you are passionate about.

You may want to meet new people, especially if you have left some of your old circle of friends behind. You may be able to do this by finding some volunteering activities, becoming active in your new neighbourhood if you have moved or joining a community group.

You may not be used to thinking of yourself as capable, so celebrate each milestone, from big ones like finishing with family court to small ones like the first time you take on a responsibility that your ex-partner would typically do. And don't hesitate to call on friends and family to help you with tasks you have never done before, especially if they are willing to help you learn how to do them yourself.



Supporting children

AFTER COURT IS OVER

NOTES

Limit what you share with them so they don't feel like they have to become involved in the adult issues. At the same time, listen to them so you know what they are worried about, what they want for their future in your newly configured family, what kind of support they might want, how they feel about decisions that will have an impact on them.

It is really important, no matter how old your kids are, for them to hear consistently from you that you love them, that the family breakup is not their fault, that they are not to worry about money and that it is okay for them to keep loving their father too.

To the extent that you can, make changes slowly and try to stick to familiar structures and routines. For example, even if the children are going to have to change schools, can it wait until the end of the school year or at least the end of the term?

If it is safe, develop similar (or at least not contradicting) strategies with your ex-partner so the children learn there will be consistency between their two homes about things like homework, chores, bedtimes and so on.

Your children will be affected socially, physically, emotionally and academically if they are exposed to ongoing conflict between you and your ex-partner. You cannot control his behaviour, and you should never put yourself in an unsafe situation just to avoid conflict, but if you do the best job you can to behave in a non-emotional and respectful way toward him, you will reduce the tension to which your children will be exposed.

Now may be a good time to involve extended family if your children are already close to them. A child may be able to share with a grandparent some of the anxieties that they don't want to burden you with.

Depending on how severe your children's emotional reactions to the new structure of your family are, you may need to consider finding professional support for them.

To find counselling services for children who have witnessed abuse, please contact your local women's shelter. Find the closest shelter at sheltersafe.ca, or visit Children's Mental Health Ontario at cmho.org.



Helpful links

- *Website:* FamilyCourtAndBeyond.ca
- *To download:* FamilyCourtAndBeyond.ca/about-this-site/download-these-resources/
- *To purchase:* FamilyCourtAndBeyond.ca/how-to-purchase-hardcopies-of-the-workbook-and-organizer/
- *En français:* AOCVF.ca/commander-du-materiel/



| Your Legal Rights



This webinar was brought to you in partnership with CLEO Your Legal Rights.

For more information on our webinars visit

<https://cleoconnect.ca/yourlegalrights/webinars>

CLEO's Steps to Justice website gives step-by-step information about common legal problems including partner abuse, family law, criminal law, housing and more.

For more information visit www.stepstojustice



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario