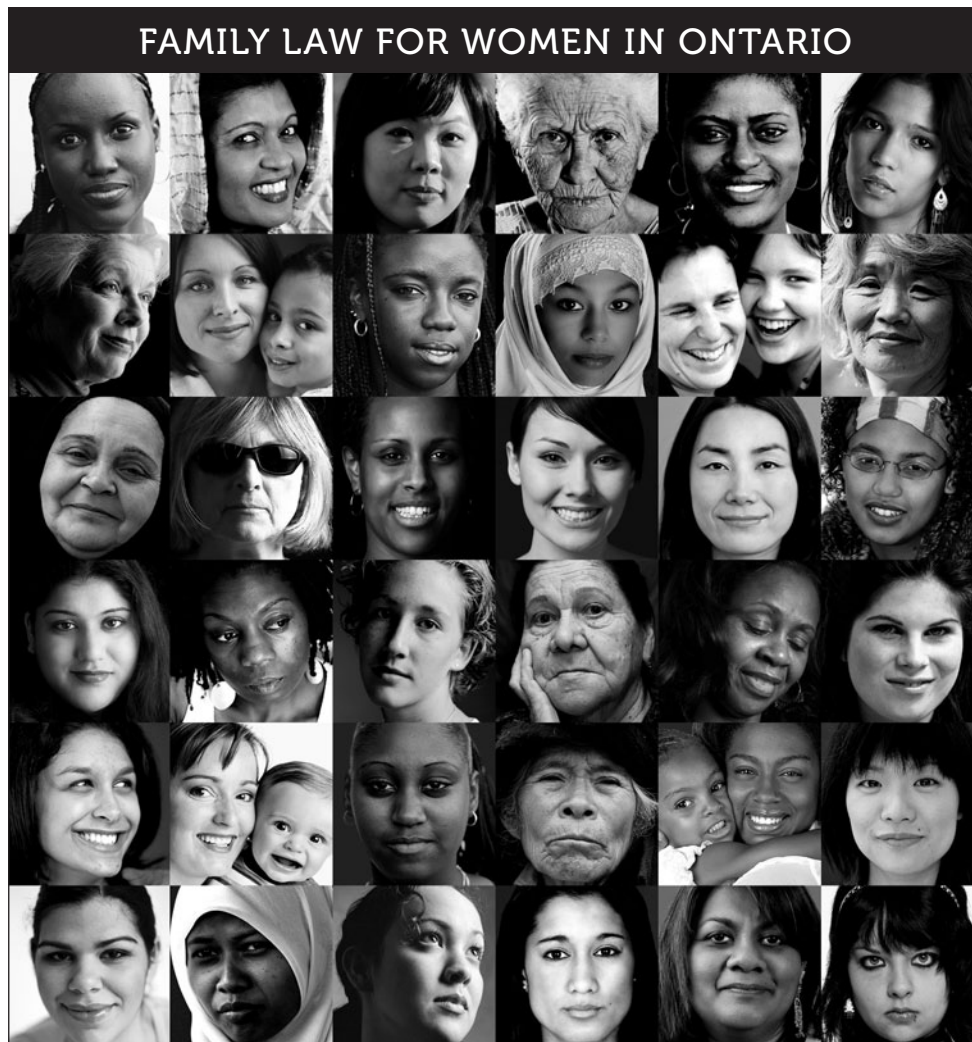


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Child Protection and Family Law

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Child Protection and Family Law

This booklet is meant to give you a basic understanding of legal issues. It is not a substitute for individual legal advice and assistance. If you are dealing with family law issues, get legal advice as soon as possible to protect your rights. For more information about how to find and pay for a family law lawyer, see our booklet on "Finding Help with your Family Law Problem" on our website at www.onefamilylaw.ca.

Ontario has a law, the *Child and Family Services Act* (CFSA), to protect children from being mistreated. The law defines what is in the best interests of children, and how to protect children and make sure they are well cared for.

FAMILY LAW FOR WOMEN IN ONTARIO

The government funds child welfare agencies, which are usually called **Children's Aid Societies** (CAS). Their job is to protect children from harm, including neglect. The CAS also places children for adoption, and offers support to families. Their role is to work to help families stay together and, in extreme cases, remove children from their homes.

As a parent, you must protect your children from harm and provide for their basic needs like food and shelter. If the CAS has a reason to believe that you are not doing this, it can investigate your family. After the CAS investigates, if it believes that your child is **in need of protection**, it can remove your child from your home.

CHILD PROTECTION AND FAMILY LAW

What does “in need of protection” mean?

A child can be in need of protection if he or she:

- is left alone, is uncared for or is neglected;
- has been abused or is likely to be abused;
- sees abuse between adults in the home.

Abuse includes physical, sexual and emotional abuse. It does not matter who is abusing the child. The law says you must protect your children. Even if you are not abusing your child, the CAS can investigate if you knew about the abuse, or should have known about it, and did not try to stop it.

Sometimes women who are being abused end up being investigated by the CAS. The CAS does this because it is concerned that the adult abuse is affecting the child’s safety and well-being.

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If you are being abused and the police are called, CAS may come to your house. They will ask you and your child questions. If the CAS feels that you are not doing what you should to protect your child from harm, they may remove your child even though you are not the abuser.

How does CAS get involved with families?

Anyone who believes that a child may be in need of protection is supposed to tell the CAS. This is called the **duty to report**. Every professional who works with children must call the CAS if they suspect abuse or neglect. This includes teachers, doctors, social workers, religious leaders and day care workers. If they do not report to the CAS, they can be charged with a crime.

CHILD PROTECTION AND FAMILY LAW

The duty to report is ongoing. This means that even when a person has already reported the abuse, they must report any other time they think the child has been abused or neglected.

Your family may also come to the CAS's attention in other ways, for example, if you call CAS for assistance. The police may also call the CAS if they have been to your home because of reports of abuse between you and your partner.

What happens when the CAS first gets involved?

Step 1: Screening

When someone calls the CAS, it will do an **initial screening** to decide if it needs to do anything else. This means that it will take some steps to look into the report to decide

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whether it needs to become involved with your family. Sometimes the CAS will decide that it does not need to take any more action at this point because it is satisfied that your child is well cared for.

Step 2: Investigation

After the screening step (Step 1), the CAS may decide to **investigate**. If this happens, the CAS will visit your home and talk to you, your partner and your child. The CAS can also interview people outside the home such as other family members, teachers or neighbours.

When the CAS investigates, it is trying to decide if your child is in need of protection. Being investigated by the CAS is very serious. If you do not address their concerns, the CAS may get more involved. Take steps that show you are trying to deal with the problems.

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At the end of the investigation, the CAS may decide that your child does not need protection. If this happens, it will take no other steps.

Step 3: Plan of service

If the CAS decides that your child is in need of protection, it must take the “least disruptive course of action”. This means that, where possible, it will work with your family to try to deal with the problems, and to leave the child in your home.

In most cases where the CAS is working with families, it will ask you to sign an agreement that says what you will do to make sure your child is safe. This agreement is usually called a plan of service. If you have been asked to sign a plan of service, get legal advice. The CAS can remove your child from your home

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if you refuse to sign the **plan of service** or if you sign it but do not follow the conditions.

After you sign a plan of service, the CAS will usually stay involved with your family for some time to make sure that your child is safe and well cared for and that you are following the plan.

Step 4: Removing the child

If you refuse to do what the CAS has asked, or if the CAS decides that your child could be harmed, it may **apprehend**, or remove, your child from the home. Your child may be placed with a family member, in a foster home or in a group home.

Some kinds of abuse are also crimes. Many CAS offices have policies that say they must report to the police any time someone tells

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them about physical abuse and sexual abuse. The police will investigate the abuse and may lay criminal charges. The criminal case will be in addition to the child protection hearings. Criminal charges do not make the child protection case go away.

Apprehension at birth

The CAS has the power to take your child at birth if there are significant concerns for your child's safety, for example, if your previous children have been taken by the CAS, if you have a serious drug and alcohol problem or if you are homeless or living in an unsafe environment. If you are a teen mother, especially if you were ever in the care of the CAS, you are at particular risk of having your baby taken by the CAS at birth.

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Going to court on a child protection matter

Child protection proceedings are complicated. They move quickly. If your child is removed, the CAS must bring the case before a judge within five days. If this has happened to you, get legal advice right away.

If you are a francophone woman living in Ontario, you have the right to access French language services in family law court proceedings. For more information regarding your rights, contact a lawyer, a community legal clinic, or the support line Femaide at 1-877-336-2433, TTY 1-866-860-7082.

You can find more information on how to access services in French on our website at www.onefamilylaw.ca or www.undroitdefamille.ca.

Family Law Topics Available*

1. Alternative Dispute Resolution and Family Law (ENG 001)
- 2. Child Protection and Family Law (ST 002)**
3. Child Support (ST 003)
4. Criminal and Family Law (ST 004)
5. Child Custody and Access (ST 005)
6. Domestic Contracts (ENG 006)
7. Family Law Arbitration (ENG 007)
8. Family Law Issues for Immigrant, Refugee and Non-status Women (ST 008)
9. Finding Help with your Family Law Problem (ST 009)
10. How Property is Divided in Family Law (ENG 010)
11. Marriage and Divorce (ST 011)
12. Spousal Support (ST 012)

** This booklet is available in multiple formats. Please see www.onefamilylaw.ca for more information. You can also find additional materials on the website to help you understand your family law rights.*

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