

## **Key Legal Terms: Financial Support after Breakup: Child Support**

### **Child support**

When partners separate and do not live together, they must share the costs of caring for their dependent child or children. The parent who the child lives with most of the time usually has higher costs for looking after the child. Child support is money that one parent pays to the other to help with the costs of raising the child.

### **Legal requirements to pay**

Child support is a child's right. In Canada, parents have a legal responsibility to provide support for their children to the extent that they can.

### **Payor parent**

The parent who pays child support

### **Recipient**

The parent who gets child support

## **Which children does the payor have to support?**

The payor parent has to pay child support for all of his or her dependent children. A dependent child is under 18 years old, unmarried, and still living with a parent. A child over 18 may continue to be dependent and entitled to child support if she or he is a full-time student, or has a disability and is unable to be self-supporting. Children over 16 are no longer dependent if they get married or leave home.

## **Who pays child support?**

A payor parent can be the birth parent or an adoptive parent. A step-parent or someone who acted in the place of a parent may also have to pay child support. A parent has to pay child support even if:

- they do not live with the child;
- they do not see the child;
- they are not married to the other parent; or
- they never lived with the other parent.

## **Determining the amount of child support**

### **Child Support Guidelines**

Federal and provincial governments decide the minimum amount of child support that a parent should pay in the *Child Support*

*Guidelines.* The courts must follow the *Guidelines* to determine the amount of child support.

The *Child Support Guidelines* include different child support tables for each province and territory. The child support tables set out support amounts taking into account the payor's annual income, and number of children the payor must support. The table that applies is based on where the payor parent lives in Canada and shows the monthly amount of support.

Courts can consider other factors that may change the monthly amount of support, such as:

- if a child spends almost the same amount of time with each parent;
- if there are multiple children of the relationship, and both parents have at least one child living with them;
- if there is another parent with a duty to support the child (birth or step-parent); or
- if the payor parent proves that paying the Guideline amount would cause "undue hardship". This means that the parent would not be able to pay for his or her own living expenses.

The Court will look at a family's situation. The amount of support will be based on the income of both parents and what the child needs.

## **Special or extraordinary expenses**

A child may be entitled to additional support to pay for special or extraordinary costs such as day care fees, special classes or activities, special education or unusual health care costs. If the child has special expenses, the parents must share the cost. The amount that each parent will pay depends on her or his income.

## **Changing child support**

Parents can agree to their own child support arrangements, or they can get a court order.

If the partners have a private agreement and they both agree, they can make a change to their agreement or make a new agreement. Any change to an agreement must be dated, signed by both partners and signed by a witness. If the partners cannot agree, then either one of them can go to court and ask for a change to their support agreement.

If there is a court order for child support, it can only be changed by the court. Either parent can apply to the court to change the amount of child support or any other terms in the order. If the parents both agree to a change, the court is more likely to make the change. If the parents do not agree, the court will only change an order for support if the situation has changed a lot, for example, if the payor's income has changed, if the child's living

arrangements have changed, or if there are new special expenses.

## **Family Responsibility Office (FRO)**

The Family Responsibility Office is a provincial government office responsible for making sure that support orders (for child support and spousal support) are followed in Ontario. Every court order for support is automatically filed with the FRO. If partners have an agreement about support, they can choose to file a copy with the FRO, to make sure it is followed. The payor makes all support payments to the FRO. When the FRO gets the payment, it sends a payment to the other partner. If payments are missed, the FRO can take action to get the payor to make payments.



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*There is a greater risk of violence when an intimate relationship is ending. If you are in immediate danger, call 911. If you or someone you know is at risk, visit the FLEW website for information on getting support.*

*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](http://www.onefamilylaw.ca) or [www.undroitdefamille.ca](http://www.undroitdefamille.ca).*