Family Law
Child Protection
& LAO Services

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Types of LAO Services

- **Duty Counsel**
  - “traditional”, day-of court assistance. Usually Staff Lawyers with LAO, but sometimes private per-diem lawyers hired for court “shifts”

- Summary Legal Advice Family **(SLAF)** / Family Law Information Clinic **(FLIC)**
  - ~20min advice sessions provided over the phone or in person. Simple advice and document preparation offered

- **Certificates**
  - For clients to find private lawyers willing to accept the matter. A block of hours to work on a particular legal matter

Legal Aid Ontario - Family and Child Protection Eligibility

Family size	Family / immigration and refugee: Family income must be lower than	Criminal: Family income must be lower than
1	$18,795	$45,440
2	$32,131	$45,440
3	$39,352	$45,440
4	$45,289	$45,440
5	$50,803	$50,803

Client & Lawyer Service Center (CLSC) - 1-800-668-8258
Sudbury Duty Counsel - 705-670-9282

LAO Services in Sudbury

- Family Law Information Clinics
  - Fridays (in person) first come first serve currently at 224 Elm St (LAO District Office) 9:30am-12:00pm, 1:00pm-3:30pm - usually with staff lawyer
  - Friday (phone) by appointment, usually with per diem lawyer
  - “Enhanced” Duty Counsel FLIC once per month per staff lawyer
    - Usually for follow-ups and more complex document preparation
- Wiikwemkoong FLIC (in-person) - provided in the community once per month
- Espanola FLIC (in-person) - provided bi-monthly

LAO Services in Sudbury

Duty Counsel (in court services)

- Provided for matters at the Ontario Court of Justice at:
  - 159 Cedar St, Sudbury
  - 100 Tudhope St, Espanola
  - 27 Phipps St, Gore Bay
  - 19A Complex Dr, Wiikwemkoong

- Duty Counsel will assist financially eligible clients at case management appearances (scheduling), and for Case/Settlement Conferences.

- Motions, Trial Management Conferences, and Trials are not covered however clients can obtain summary advice

Family Law

Ontario Court of Justice

Matters dealing with arrangements for children, child/spousal support, and restraining orders - specifically for unmarried parents, but married are not precluded

Superior Court of Justice

Matters can include children and support, but exclusive authority to deal with property and grant divorces - mostly married people or those with assets

Family Law

Steps:

- **Obtain legal advice:** paid privately or through an LAO service
- **Consider alternatives to litigation:** mediation and/or separation agreement (domestic contract)
- **Prepare litigation:** with counsel, duty counsel, or on your own - prepare necessary court documents

  https://stepstojustice.ca/guided-pathways/family-law-about/

- **Exchange litigation materials:** Documents are served and filed, with required attachments depending on the issues in the case (Ex: Notices of Assessment + proof of income if support is sought

Family Law

Steps (con't):

- **Appear at a Rule 40 Clerks Court:** to verify that materials have been exchanged and matter is ready to proceed to a Conference

- **Case/Settlement Conference:** Discuss the case with the other party with a judge present to see:
  - what can be reached on agreement
  - what information is still necessary to exchange,
  - if there are steps that can be taken toward a final resolution.

- **Motions for temporary orders:** Matters could not be resolved by agreement, so a judge will impose a temporary order based on Affidavits

Family Law

Steps (con't):

- **Settlement Conference (again):** Now there is a temporary order in place, revisit the idea of settlement and whether the case can now be resolved after a judge has put things in place

- **Trial Management Conference:** How will a trial be conducted, who are the witnesses, etc

- **Focussed Hearing or Trial:** If the issue is narrow a focussed hearing (mini-trial) can resolve the case, or if everything is unresolved a trial will have to be scheduled. Both processes are very complex

Family Law

Steps (con’t):

- **New Tools:**

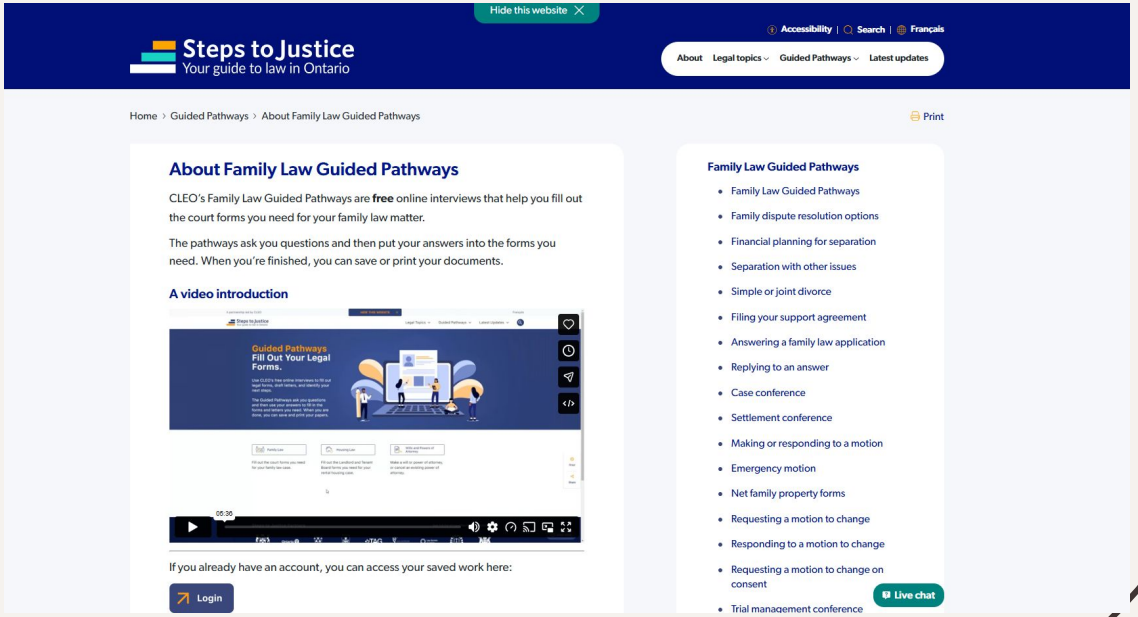
  Binding Judicial Dispute Resolution

  The Superior Court of Justice has a procedure that is designed for less-complex issues where if both parties agree, a judge will conduct a settlement focussed negotiation based on affidavit materials, and if the parties are still unable to agree, the judge can be empowered to issue the decision without the need for a hearing/trial.

Family Law

Steps to Justice / Guided Pathways:

https://stepstojustice.ca/legal-topic/family-law/



Legal Aid Ontario
Aide juridique Ontario

MEDIATION

Mediation is a process where a trained professional helps you and your ex to settle a variety of issues.



Mediation is a **good alternative to going to family court.**



Is mediation right for you?



You're both ready to **cooperate.**



You're both ready to **put differences aside**.



You're both willing to **compromise.**

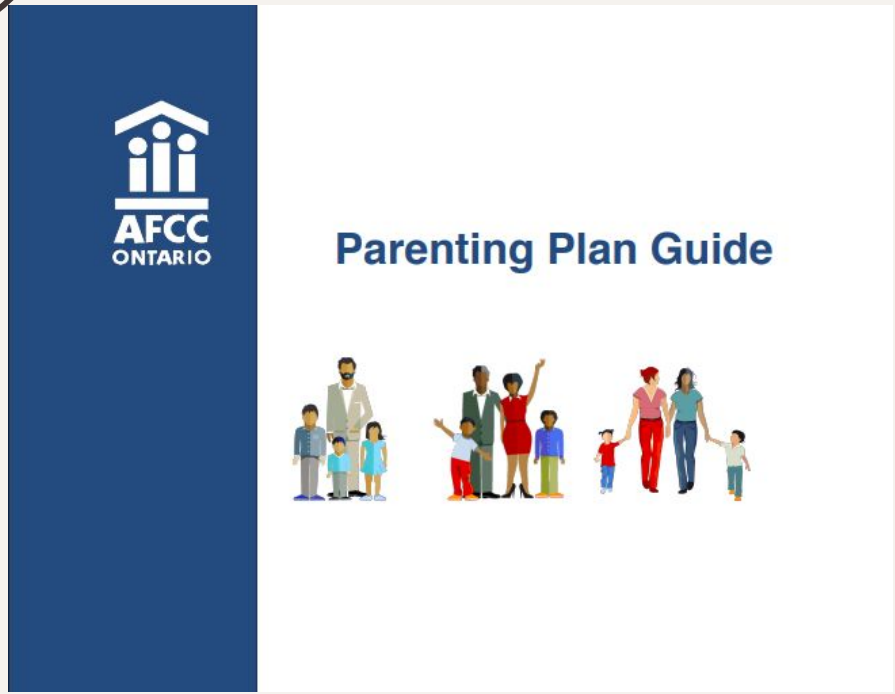
MEDIATION	VS.	FAMILY COURT
You work together and decide for yourselves.		You present your side and a judge decides for you.
It's less expensive than going to court. Average cost is under $5,000.		It can be expensive and can range from $5,000 to $25,000.
It's faster and more flexible than the court process.		The court process can take a very long time. It can take months or even years.
It takes place in a private setting.		It takes places in a public courthouse.

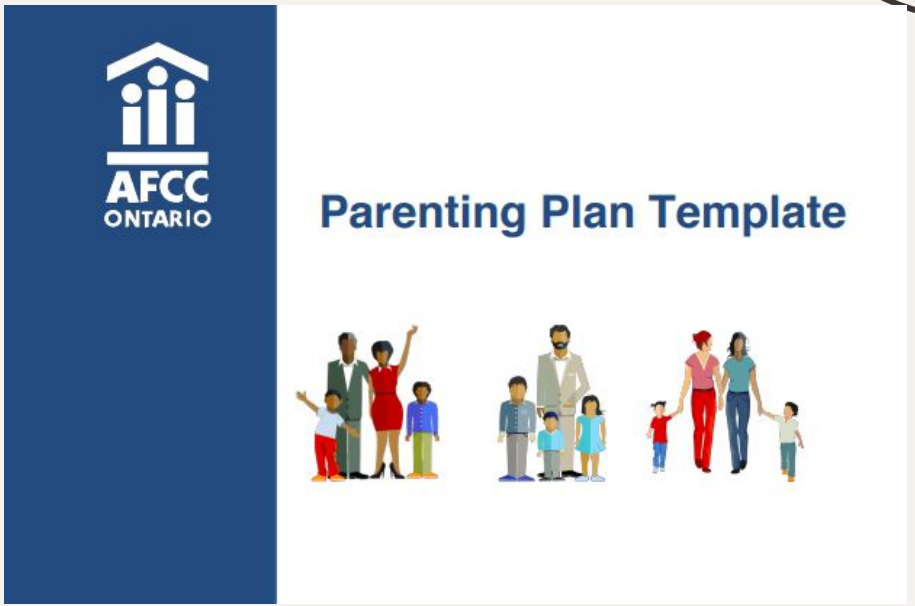
How do I get a mediator?

Call us toll-free at **1-800-668-8258** from Monday to Friday, 8 a.m. to 5:00 p.m.

Legal Aid Ontario
Aide juridique Ontario

AFCC-O Parenting Resources





https://afccontario.ca/parenting-plan-download/

Mediation / Negotiations Successful

Still get legal advice and services!

Successful mediation results in an agreement. That agreement is non-binding. This is for both parties' protection as they are both entitled to legal advice and choice to make terms binding.

Duty Counsel will draft the terms of the agreement into Minutes of Settlement that can be turned into a Court Order so long as 1 party qualifies, the other party has to get Independent Legal Advice (ILA)

Terms of agreement can also be made into a binding Domestic Contract. Support can be enforced as if it is a Court Order.

Restraining Orders

Three types:

Children's Law Reform Act
For those who share in the care of children

Family Law Act
For those who are former spouses that lived together in a conjugal relationship

Child Youth and Family Services Act
Within the context of a child protection proceeding

Restraining Orders

Same grounds for all 3:

The court may make an interim or final restraining order against any person if the applicant has reasonable grounds to fear for his or her own safety or for the safety of any child in his or her lawful custody.

There is often confusion between restraining orders and Peace Bonds which are made in criminal courts.
The effect is the same. Breach = Criminal Charge

Restraining Order (domestic context) vs. Peace Bond (neighbours/strangers)

Child Protection

What to do if your client is approached by a child protection agency?

Child Protection Services in Sudbury

- Child protection matters engage people's Charter Rights and are therefore serious.

- Duty Counsel will assist at every hearing where a removal from a parent has occurred (no financial eligibility test)
  - Clients are advised on the process of what to expect, and how to best be prepared to answer the case

- Duty Counsel will always refer to the certificate program for a private lawyer, but there is a shortage of available lawyers.

- If client's can't find counsel, Duty Counsel may offer document preparation in the alternative so matters aren't delayed (re: FLIC)

Child Protection Services in Sudbury

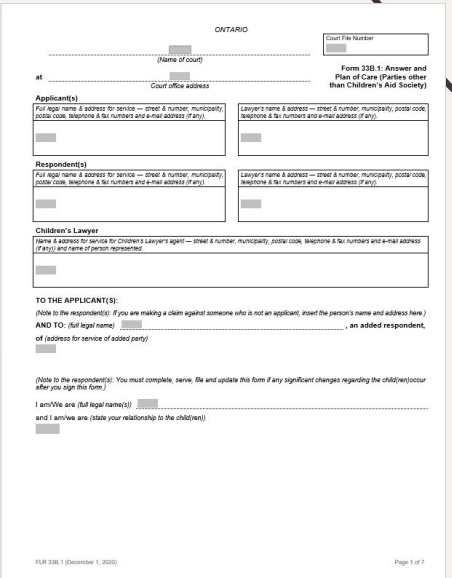
- Intrusion by child protection agency is what engages Charter Rights, not just taking matters to court.

Alternatives to litigation:

- Out-of-Court Child Protection Certificate Services
  - Voluntary Service Agreements
  - Temporary Care Agreements
  - Customary Care Agreements

- Access to available counsel remains a constant barrier

How to Assist?



ONTARIO

Court File Number

(Name of court)

at

Court office address

Form 33B.1: Answer and Plan of Care (Parties other than Children's Aid Society)

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Children's Lawyer

Name & address for service for Children's Lawyer's agent — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any)) and name of person represented.

TO THE APPLICANT(S):

(Note to the respondent(s): If you are making a claim against someone who is not an applicant, insert the person's name and address here.)

AND TO: (full legal name) , an added respondent,

of (address for service of added party)

(Note to the respondent(s): You must complete, serve, file and update this form if any significant changes regarding the child/ren occur after you sign this form.)

I am/We are (full legal name(s))

and I am/we are (state your relationship to the child(ren))

FLR 33B.1 (December 1, 2020)

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PLAN OF CARE (Part 4)

(a) Where will you live?
(b) Who, if anyone, will live with you?
(c) Where will the child(ren) live?
(d) What school or daycare will the child(ren) attend?
(e) What days and hours will the child(ren) attend school or daycare?
(f) Are you enrolled in school or counselling?
(g) If you are enrolled in counselling, where do you attend counselling?
(h) What support services will you be using for the child(ren)?
(i) Do you have support from your family or community?
(j) If you have support from your family or community, who will help you and how will they help you?
(k) What will the child(ren)'s activities be?
(l) What will your source of income be?
(m) Do you go to work or school?
(n) If you go to work or school, what are the details, including the days and hours you work or go to school, and who will look after your child(ren) while you are there
(o) State why you feel that this plan would be in the child(ren)'s best interests.

How to Assist?

Emphasis on engaging in services that address the cause of concern

Importance of strengthening the family unit

Agencies are required to provide a Form 33B: Plan of Care which outlines the expectations of the caregiver

#5: The children's aid society expects the respondent(s) to carry out certain conditions before it would feel that supervision or society care of the child(ren) is no longer needed. Very serious consequences could result if those conditions are broken. These conditions are:....

- Allow visits in the home, allow interviews with the child
- Engage in anger management, substance abuse services, follow recommendations from doctor, etc
- Abstain from non-prescribed drugs (in a caregiving role), ensure non-exposure to those under the influence, etc

Resources

LAO

- Client Lawyer Service Center - 1-800-668-8258
    - Applications for Certificates and SLAF call-backs
- Sudbury Duty Counsel - 705-670-9282 for FLIC
- stepstojustice.ca
- findlegalhelp.ca
- AFFC-O Parenting Guide - https://afccontario.ca/parenting-plan-guide-and-template/