

Marvel Mediation & Counselling

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SOME IMPORTANT FAMILY LAW FACTS

ARBITRATION ACT (S.O. 1991):

s.5(3) Oral agreements – An arbitration agreement need not be in writing.

s.11(1) Duty of arbitrator – An arbitrator shall be independent of the parties and shall act impartially.

s.12 No revocation – A party may not revoke the appointment of an arbitrator.

s.13(1) Challenge – A party may challenge an arbitrator only on one of the following grounds:

1. Circumstances exist that may give rise to a reasonable apprehension of bias.
2. The arbitrator does not possess qualifications that the parties have agreed are necessary.

s.17(1) Arbitral tribunal may rule on its own jurisdiction – An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.

s.50.1 Family arbitration awards – Family arbitration awards are enforceable only under the Family Law Act.

CHILD & FAMILY SERVICES ACT (CFSA, R.S.O. 1990):

s.20.2(1) Resolution of issues by prescribed method of alternative dispute resolution – If a child is or may be in need of protection under this Act, a society shall consider whether a prescribed method of alternative dispute resolution could assist in resolving any issue related to the child or a plan for the child's care.

s.72(1) Duty to report child in need of protection – Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion & the information on which it is based to a society:
for a complete list of reporting reasons, please reference the CFSA directly in s.72(1)

s.72(1) Person must report directly – A person who has a duty to report a matter under subsection (1) or (2) shall make the report directly to the society & shall not rely on any other person to report on his or her behalf.

CHILDREN'S LAW REFORM ACT (CLRA, R.S.O. 1990):

s.20(4) Duty of separated parents – Where the parents of a child live separate & apart & the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement of custody & the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

s.20(5) Access – The entitlement to access to a child includes the right to visit with & be visited by the child & the same right as a parent to make inquiries & to be given information as to the health, education & welfare of the child.

DIVORCE ACT (R.S.C. 1985):

s.2(2) Child of the marriage – For the purposes of the definition “child of the marriage” in subsection (1), a child of two spouses or former spouses includes

- (a) any child for whom they both stand in the place of parents; and
- (b) any child of whom one is the parent and for whom the other stands in the place of a parent.

FAMILY LAW ACT (R.S.O. 1990):

s.3(3) Duty of mediator – The mediator shall confer with the parties, and with the children if the mediator considers it appropriate to do so, and shall endeavour to obtain an agreement between the parties. R.S.O. 1990, c. F.3, s. 3 (3).

s.13.1 Order regarding conduct – In making any order under this Part, the court may also make an interim order prohibiting, in whole or in part, a party from directly or indirectly contacting or communicating with another party, if the court determines that the order is necessary to ensure that an application under this Part is dealt with justly. 2009, c. 11, s. 27.

s.30 Obligation of spouses for support – Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so. R.S.O. 1990, c. F.3, s. 30; 1999, c. 6, s. 25 (3); 2005, c. 5, s. 27 (7).

FAMILY RESPONSIBILITY & SUPPORT ARREARS ENFORCEMENT ACT:

s.10(1) Support deduction orders to be made – An Ontario court that makes a support order, as defined in subsection 1(1), shall also make a support deduction order.

s.23(1) Maximum deduction by income source – The total amount deducted by an income source and paid to the Director under a support deduction order shall not exceed 50 per cent of the net amount owed by the income source to the payor.