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Education for Women  
Women's Right to Know

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droit de la famille  
Le droit de la femme à savoir

# Spousal Support Basics and Partner Abuse

March 24, 2014

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# METRAC

## METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end violence against women, youth and children
- a not-for-profit, community-based organization

[www.metrac.org](http://www.metrac.org)

## METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

## **Family Law Education for Women** in Ontario -- **FLEW**

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)

[www.undroitdefamille.ca](http://www.undroitdefamille.ca)

# Presenters

## **Tamar Witelson**

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# Topics to be Covered

1. What Is Spousal Support
2. Purposes of Spousal Support
3. Who Can Get It
4. What Determines the Amount
5. For How Long
6. Ensuring a Fair Amount
7. Making Changes
8. Enforcing Payment of Spousal Support
9. Additional Resources

*Accurate as of the date of this webinar presentation: March 24, 2014*



# What is Spousal Support?

# Spousal Support

- a monetary payment
- lump sum or regular, usually monthly
- to help pay living expenses
- from the partner with higher income to the partner with lower income
- after separation or divorce
- **not** a right after every relationship

## **The law in Ontario requires:**

*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.*

-Ontario *Family Law Act*, s. 30



# Purposes of Spousal Support

# Purposes of Spousal Support

## 1. Compensation

- recognize a partner's contributions to the relationship
- respond to impact from marriage and breakup:
  - economic advantages to a partner
  - economic disadvantages to a partner



# Purposes of Spousal Support

## 2. Based on Needs

- to help a partner to become self-supporting
- to relieve financial hardship arising from the breakdown of the relationship
- to share the financial consequences arising from the care of children



# Who Can Get Spousal Support

# Who Can Get Spousal Support?

- either partner, including same sex partners
- married – now separated or divorced
- common law (in Ontario)
  - no children, after 3 years cohabiting
  - with a child together, after a relationship of “some permanence” of any length
- it is not automatic in every relationship following breakup



# Scenario 1

Sanjay and Kendra were married for 16 years and she stayed home to look after their two kids, 8 and 11 years old.

They are splitting up now and their discussions are very bitter. Sanjay says the kids can stay in the house with Kendra but there's no way he's going to pay her any money to help her with her own living expenses.

He says if she fights him for any support, he'll go to Court to keep the kids, drag out their divorce for a long time, and she'll end up with nothing.

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# What Determines the Amount

# What Determines the Amount?

- partners may agree to an amount themselves
- Court may order an amount and must consider:
  - length of relationship
  - each partner's financial situation
    - now
    - in future
- ability for lower income partner to support self
- ability of higher income partner to pay
  - including other legal obligations to provide support
- age and health of each partner

# What Determines the Amount?

- role of each partner during the relationship
- effect on earning capacity as a result of that role
- current needs
- living standard during relationship
- arrangements for any child of the relationship
- unconscionable conduct
  - generally, conduct of spouses does not affect spousal support
  - rare cases, amount may be affected by “obvious and gross” conduct that shows a rejection of the relationship



# Domestic Violence and Abuse

- the effects of abuse can impact a person's ability to be self-sufficient
  - find a job
  - advance at work
  - go to school
- the Court may increase amount and length of time of spousal support in cases of partner abuse
- the Court has decreased spousal support where mom purposely harmed the child's relationship with dad

# Domestic Violence and Abuse

## **Abuse in a partner relationship can be:**

- Physical
- Sexual
- Verbal
- Psychological
- Emotional
- Financial
- Spiritual

**Abuse can be bullying, or any behaviour that demeans, or removes a person's confidence or ability to act as she chooses**

# Amount Guidelines

## Spousal Support Advisory Guidelines

- provided by Ontario government
- not mandatory
- the usual starting point for the Court

[www.supportcalculator.ca](http://www.supportcalculator.ca)

## Scenario 2

Anna (45 years old) and William (55 years old) were married for 10 years. He helped her immigrate to Canada and was always very controlling and sometimes hit her. He wouldn't let her work outside of the home or go to school, but he always provided her with a nice home, clothes, a nice car and vacations.

They are divorcing now, and she is very worried that she won't be able to get a job, or live the comfortable life she used to live.

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# How Long Spousal Support Will Be Paid

# For How Long?

- partners can agree to any terms
- a Court order may be indefinite, or set an end date
- support does not automatically end if either partner begins a new relationship
- payor may ask to end support if the receiving person's income increases



# Ensuring a Fair Amount of Spousal Support



# Ensuring a Fair Amount

- **Spousal Support is based on (and the Court requires):**
  - financial statements showing income
  - from both payor and recipient
- **financial statements include:**
  - income tax returns
  - Revenue Canada Notice of Assessment
  - statement of earnings from employer
  - business owner financial statements
  - pension statements
  - workers compensation
  - employment insurance
  - social assistance

# Ensuring a Fair Amount

- The Court requires full and complete income information
- Report if you think the payor is:
  - unemployed or underemployed on purpose
  - not reporting full income
    - self-employed
    - paid in cash
- The Court can:
  - order bank account statements
  - hear evidence about payor's lifestyle (home, car, travel)
  - “**impute**” or assign a higher income to the payor



# Scenario 3

Tama (55) and Arjun (54) lived together for 16 years. He was always a heavy drinker, and Tama has finally asked him to leave.

She wants him to pay spousal support.

He says she kicked him out of his home, and he doesn't have to pay her anything because they were never married.

When he found out that she talked to a lawyer, Arjun quit his job because he said there was no way he was going to work just to support her.



# Making Changes to Spousal Support

# Making Changes

- to private agreement, if both partners agree
  - date
  - sign
  - witness
- must apply to Court to change a Court order
  - partners can agree
  - or argue significant change in circumstances, such as:
    - one partner's income has changed
      - may be because of a new partner
    - partner getting support should be self-supporting
    - child arrangements have changed

# Scenario 4

Roberto (30) and Emelia (23) lived together as a couple on and off for 5 years, until they split up for good. They have a 4-year-old son together.

Emelia has a Court order that says Roberto has to pay her child and spousal support.

She has a new boyfriend and she wants him to move in. But every time Roberto visits their son he yells and says he will cut her off if she starts living with another guy.

She is frightened and doesn't know what to do.

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# Enforcing Payment of Spousal Support



# Enforcing Payment of Support

- **Ontario Family Responsibility Office (FRO)**
  - ensures payment of spousal and child support
  - must be in a Court order
    - Court orders automatically filed with FRO
    - private agreements must be filed with the Court (possible at any time)
  - paying person sends money to FRO
  - FRO pays the receiving person



# Enforcing Payment of Support

- **If payments are missed**
  - receiving person provides payor's current information:
    - name
    - address
    - Social Insurance Number
    - place of work
    - income
    - owned property
- **FRO can get money from:**
  - deducting money from payor's wages, employment insurance, income tax refund, pension
  - putting a lien (a right to its value) on property
  - taking money from a bank account

# Enforcing Payment of Support

- **FRO can:**

- get driver's license suspended
- affect credit rating for loans
- get passport cancelled

- **FRO can help:**

- across Canada
- in Unites States
- other countries with agreements with Ontario

- **Contact FRO:**

24-Hour Automated Information Line  
416-326-1818 (Toronto)  
1-800-267-7263 (toll free)

[www.mcass.gov.on.ca/en/mcass/programs/familyResponsibility/Contact/payor\\_recipient.aspx](http://www.mcass.gov.on.ca/en/mcass/programs/familyResponsibility/Contact/payor_recipient.aspx)

# Scenario 5

Aaron and Rebecca were married for 7 years. They are both 32 years old. When they got married, Rebecca quit school, but they have split up and she is back at school to get a diploma in office management.

Aaron has done well in his career and they have an agreement that he will pay Rebecca \$500 every month, until she finishes school. They agreed that once she gets a job, she should have to support herself.

She recently started dating someone, and when Aaron found out, he stopped paying her monthly support. She keeps asking for a cheque, and he says she should just leave him alone.

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# Additional Resources

# Online Basic Information

## Spousal Support

Family Law Education for Women (FLEW)

[www.onefamilylaw.ca/doc/FLEW\\_legal\\_EN\\_12.pdf](http://www.onefamilylaw.ca/doc/FLEW_legal_EN_12.pdf)

Community Legal Education Ontario (CLEO)

[www.cleo.on.ca/en/publications/spousalsupport](http://www.cleo.on.ca/en/publications/spousalsupport)

Ministry of the Attorney General (Ontario  
Government)

[www.attorneygeneral.jus.gov.on.ca/english/family/divorce/support/spousal.asp](http://www.attorneygeneral.jus.gov.on.ca/english/family/divorce/support/spousal.asp)

Department of Justice (Federal Government)

[www.justice.gc.ca/eng/fl-df/spousal-epoux/ss-pae.html](http://www.justice.gc.ca/eng/fl-df/spousal-epoux/ss-pae.html)

# Online Basic Information

## Spousal Support Guidelines

[www.justice.gc.ca/eng/fl-df/spousal-epoux/ssag-ldfpae.html](http://www.justice.gc.ca/eng/fl-df/spousal-epoux/ssag-ldfpae.html)

[www.mysupportcalculator.ca/Calculator.aspx](http://www.mysupportcalculator.ca/Calculator.aspx)



# Online Basic Information

## Ministry of the Attorney General

[www.attorneygeneral.jus.gov.on.ca/english/](http://www.attorneygeneral.jus.gov.on.ca/english/)

- 1-800-518-7901 (toll free)
- 1-877-425-0575 (TTY)

## Family Law Information Program (FLIP)

[www.legalaid.on.ca/en/getting/flip.asp](http://www.legalaid.on.ca/en/getting/flip.asp)

## Family Law Information Centres (FLICs)

[www.legalaid.on.ca/en/getting/type\\_family.asp](http://www.legalaid.on.ca/en/getting/type_family.asp)

## Family Law Services Centres (FLSCs)

[www.legalaid.on.ca/en/contact/contact.asp?type=flsc](http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc)

## Family Law Education for Women (FLEW)

[www.onefamilylaw.ca/en/resources/](http://www.onefamilylaw.ca/en/resources/)

## Ontario Women's Justice Network (OWJN)

[www.owjn.org](http://www.owjn.org)

# Starting the Process

- Helpful to talk to a lawyer
  - ask for free first consultation
  - discuss cost of fees and disbursements
- Legal Aid Ontario
  - [www.legalaid.on.ca/en/getting/default.asp](http://www.legalaid.on.ca/en/getting/default.asp)
  - 416-979-1446 (Toronto)(accepts collect calls)
  - 1-800-668-8258 (toll free)
  - 1-866-641-8867 (TTY)

# Starting the Process

## Legal Aid Ontario

- for low income people
- 20 minutes Summary Legal Advice
- Family Court advice lawyers
  - at Family Law Information Centres (FLICs)
- Family Law Service Centres
  - help with documents
  - help to get lawyers
- **If your partner is violent or abusive**
  - Family Violence Authorization Program
  - free 2-hour meeting with lawyer
  - offered through some shelters and community legal clinics
  - Toll-free: 1-800-668-8258; TTY: 1-866-641-8867

# Starting the Process

- JusticeNet

- not for profit service
- reduced legal fees

[www.justicenet.ca/professions](http://www.justicenet.ca/professions)

- Canadian Family Law Lawyers Network (National)

[www.cfln.ca](http://www.cfln.ca)

- Law Society of Upper Canada Lawyer Referral Service

[www.lsuc.on.ca/with.aspx?id=697](http://www.lsuc.on.ca/with.aspx?id=697)

- 416-947-3330 (Toronto)
- 1-800-268-8326 (toll free)
- 416-644-4886 (TTY)

# Starting the Process

## **Community Legal Clinics**

- can refer to services; may do some family law

[www.legalaid.on.ca/en/contact/contact.asp?type=cl](http://www.legalaid.on.ca/en/contact/contact.asp?type=cl)

## **Toolkit for a good Client-Lawyer Relationship**

[schliferclinic.com/vars/legal/pblo/toolkit.htm](http://schliferclinic.com/vars/legal/pblo/toolkit.htm)

- Barbra Schlifer Commemorative Clinic

## **See FLEW Webinars:**

- Where to Look for a Family Law Lawyer
- Your Day in Family Court: How to Prepare and What to Expect

[www.onefamilylaw.ca/en/webinar/](http://www.onefamilylaw.ca/en/webinar/)

# Resources

## Online forms

<http://www.ontariocourtforms.on.ca/english/family/>

## Ontario Court Forms Assistant

<https://formsassistant.ontariocourtforms.on.ca/Welcome.aspx?lang=en>

- Get help online to complete family court forms

## Online guide to estimate child support amount

[www.MySupportCalculator.ca](http://www.MySupportCalculator.ca)

# Resources

## Ontario Courts

[www.ontariocourts.on.ca/](http://www.ontariocourts.on.ca/)

- Online guide provides an overview of all courts in Ontario
- Information on family courts:
  - Superior Court of Justice [www.ontariocourts.ca/scj/en/famct/](http://www.ontariocourts.ca/scj/en/famct/)
  - Ontario Court of Justice [www.ontariocourts.ca/ocj/family-court/overview/](http://www.ontariocourts.ca/ocj/family-court/overview/)

## Ontario Court Locations

[www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/](http://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/)

- Find court addresses across Ontario

# Resources

## Family Responsibility Office

- Ministry Community & Social Services

- Toll-free: 1-888-815-2757

- [www.mcass.gov.on.ca/en/mcass/programs/familyResponsibility/welcome.aspx](http://www.mcass.gov.on.ca/en/mcass/programs/familyResponsibility/welcome.aspx)



# Domestic Violence and Abuse

- **Assaulted Women's Helpline** [www.awhl.org](http://www.awhl.org)
  - 24 hours/7 days; multiple languages
  - Toll-free: 1-866-863-0511; TTY: 1-866-863-7868
- **Ontario Coalition of Rape Crisis Centres** <http://www.sexualassaultsupport.ca/>
- **Network of Sexual Assault/Domestic Violence Treatment Centres**  
[www.sadvtreatmentcentres.net](http://www.sadvtreatmentcentres.net).
- **Victim Services Directory** [www.justice.gc.ca/eng/pi/pcvi-cpcv/vsd-rsv/index.html](http://www.justice.gc.ca/eng/pi/pcvi-cpcv/vsd-rsv/index.html)
- **Barbra Schlifer Legal Clinic**
  - Toronto: 416-323-9149 x278 (legal intake) TTY: 416-3231361
  - Free counselling, referral, legal and interpreter services to survivors of violence (Family, Criminal and Immigration law)
- **Family Violence Authorization Program (Legal Aid Ontario)**
  - Free 2-hour emergency meeting with a lawyer
  - Offered through some shelters and community legal clinics
  - Toll-free: 1-800-668-8258; TTY: 1-866-641-8867